

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

ROGER EUGENE FAIN,  
*Plaintiff,*

v.

BOBBY LUMPKIN, DIRECTOR,  
TEXAS DEPARTMENT OF CRIMINAL  
JUSTICE, *et al.,*  
*Defendants.*

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Civil Action No. 5:20-CV-01149

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DEFENDANTS' MOTION FOR SUMMARY JUDGMENT LIMITED TO THE  
DEFENSE OF EXHAUSTION OF ADMINISTRATIVE REMEDIES

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Exhibit 1

AFFIDAVIT

THE STATE OF TEXAS §

COUNTY OF WALKER §


BEFORE ME, the undersigned authority, on this day personally appeared Jessica Riley, who, being by me duly sworn, deposed as follows:

My name is Jessica Riley and I am an employee of the Texas Department of Criminal Justice (TDCJ), a governmental agency. I am over 21 years of age, of sound mind, capable of making this affidavit, and personally acquainted with the facts herein stated.

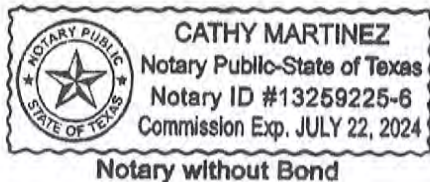
I am the custodian of records for the Inmate Grievance Department, a part of the TDCJ located in Huntsville, Texas. Attached are true and correct copies of *the grievance records for Inmate Fain, Roger E., TDCJ #700474, CN#5.20-CV-001149, for the time period of 1/1/2016 to 12/12/2020*, which are kept by the TDCJ in the regular course of its business activity. The entries of such records were made as a regularly conducted activity and a regular practice of the TDCJ, and were made at or near the time of the occurrence of the matters set forth by, or from information transmitted by, a person with knowledge of those matters.

I declare under penalty of perjury that the foregoing is true and correct.

"Further Affiant sayeth not."

  
\_\_\_\_\_  
Jessica Riley  
Manager II  
Offender Grievance, ARRM  
Texas Department of Criminal Justice

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned notary public, on the 14th day of DECEMBER, 2020.



  
\_\_\_\_\_  
NOTARY PUBLIC, STATE OF TEXAS

Cathy Martinez  
Notary's Printed Name

My Commission Expires:  
July 22, 2024



## Texas Department of Criminal Justice



# STEP 1

## OFFENDER GRIEVANCE FORM

OFFICE USE ONLY

Grievance #: 2018193011  
 Date Received: 8-17-18  
 Date Due: 9-26-18  
 Grievance Code: 500  
 Investigator ID #: 2432 / 956  
 Extension Date: \_\_\_\_\_  
 Date Ret'd to Offender: 09-28-18

Offender Name: Roger Fain TDCJ # 00700474  
 Unit: McConnell Housing Assignment: 19 Y-007  
 Unit where incident occurred: McConnell Food Service

You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? Several I-60's to Capt. Salazar When? August 2018

What was their response? That salt wasn't available at this time

What action was taken? Nothing

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate. This Step-I pertains to the fact that the Food Service Department is denying the Offender Population salt, whereas the ODR has salt & pepper available to the Officers to season their foods. Salt hasn't been available to the Offender population for the past several weeks. The salt I'm told is only available in the Officer's dining area, thus denying the Offender population access to salt to season our food, but most importantly salt is necessary to the Offender population to replace the body's salt that is lost during the day due to sweating. If salt isn't replace, this places the individual in dire straits for heat stroke and other heat related illnesses, and possible death. Salt that is used to preserve foods isn't adequate to properly replace the salt that is lost during sweating. TDCJ-CID requires able body Offenders to work, and during working the body sweats out salt. Then there are those that don't work but due to the heat in the buildings, and lack of A/C sweating is a common practice, thus the loss of bodily salt happens.

If the Offender population is denied the ability to replace the lost salt, then health issues arise, and that becomes an issue for TDCJ-CID & UTMB-CHMC.



Action Requested to resolve your Complaint.

The Food Service Department needs to give the Offender population access to salt. The Offender population has more need of salt than the Officers who are eating the Offender's food rations.

Offender Signature: Roger Fair

Date: August 16th 2018

Grievance Response:

Your complaint has been reviewed. Investigation revealed that the Food Service Department contends at the time of your grievance there was a shortage of salt; however as of 8/27/18 salt was received and was sent out. No further action is warranted by this office.

Signature Authority: R. Miller

Warden G. Miller

Date: SEP 26 2018

If you are dissatisfied with the Step 1 response, you may submit a Step 2 (I-128) to the Unit Grievance Investigator within 15 days from the date of the Step 1 response. State the reason for appeal on the Step 2 Form.

Returned because: \*Resubmit this form when the corrections are made.

- ☐ 1. Grievable time period has expired.
- ☐ 2. Submission in excess of 1 every 7 days. \*
- ☐ 3. Originals not submitted. \*
- ☐ 4. Inappropriate/Excessive attachments. \*
- ☐ 5. No documented attempt at informal resolution. \*
- ☐ 6. No requested relief is stated. \*
- ☐ 7. Malicious use of vulgar, indecent, or physically threatening language. \*
- ☐ 8. The issue presented is not grievable.
- ☐ 9. Redundant, Refer to grievance # \_\_\_\_\_
- ☐ 10. Illegible/Incomprehensible. \*
- ☐ 11. Inappropriate. \*

UGI Printed Name/Signature: \_\_\_\_\_

Application of the screening criteria for this grievance is not expected to adversely affect the offender's health.

Medical Signature Authority: \_\_\_\_\_

### OFFICE USE ONLY

Initial Submission UGI Initials: \_\_\_\_\_  
 Grievance #: \_\_\_\_\_  
 Screening Criteria Used: \_\_\_\_\_  
 Date Recd from Offender: \_\_\_\_\_  
 Date Returned to Offender: \_\_\_\_\_  
 2<sup>nd</sup> Submission UGI Initials: \_\_\_\_\_  
 Grievance #: \_\_\_\_\_  
 Screening Criteria Used: \_\_\_\_\_  
 Date Recd from Offender: \_\_\_\_\_  
 Date Returned to Offender: \_\_\_\_\_  
 3<sup>rd</sup> Submission UGI Initials: \_\_\_\_\_  
 Grievance #: \_\_\_\_\_  
 Screening Criteria Used: \_\_\_\_\_  
 Date Recd from Offender: \_\_\_\_\_  
 Date Returned to Offender: \_\_\_\_\_



**TEXAS  
DEPARTMENT OF CRIMINAL  
JUSTICE**

**OFFENDER GRIEVANCE PROGRAM**

**NOTICE**

All documentation that follows this sheet is restricted and confidential and is not to be released without the authorization of the administrator of offender grievances.

**RESTRICTED  
AND  
CONFIDENTIAL**

Exhibit 1

004

## GRIEVANCE INVESTIGATION WORKSHEET

500--0926

## Official Statement

Unit: ML Staff Name: Food Service Grievance #: 2018183011 Date: 08/17/18  
 Offender Name: FAIN, ROGER TDCJ#: 700474 Housing Location: 19Y-007

In accordance with BP 03.77, you are required to participate in this investigation as noted. Address each allegation thoroughly. Do not respond with indefinite answers such as "I don't know" or "I have no knowledge of". If you have no knowledge, explain the reason why (e.g., I was on vacation, I was not assigned there, etc.). Your answers are to be factual, professional, and complete. Do not include opinions or unrelated comments. Remember, the Executive Director, Office of the Inspector General (OIG), Attorney General's Office and State and Federal Court Officials may review your response. All grievances are confidential and may not be discussed between you and the offender or with other individuals. You are expected to return this investigation within 10 working days of receipt. Additional time may be requested by contacting the grievance investigator. Sign and date the form in the designated locations when completed and return it to the Unit Grievance Office. If you were provided a narrative copy of the grievance, it must also be returned to the Unit Grievance Office. The grievance may not be duplicated or shared with the accused staff member.

## Please Provide the Following Documents

- |  |   |
|--|---|
| <input type="checkbox"/> Participant(s) Statement                    | <input type="checkbox"/> Other                                      |
| <input type="checkbox"/> Witness(es) Statement (signed)              | <input type="checkbox"/> Staff or Offender Protection Investigation |
| <input type="checkbox"/> Activity Logs (Recreation, Shower, Feeding) | <input type="checkbox"/> Property Inventory Forms                   |
| <input type="checkbox"/> Shift Roster                                | <input type="checkbox"/> Property Logs                              |
| <input type="checkbox"/> Ingress/Egress Log                          |   |
| <input type="checkbox"/> Property Confiscation Form                  |   |

## ALLEGATIONS:

Please see attached and address all allegations.

## EMPLOYEE STATEMENT:

PRINTED NAME

SIGNATURE

DATE

RANK/TITLE

SHIFT/DEPARTMENT

## SUPERVISOR COMMENTS:

When we have items that is provided that we are to have available for the offender population. We do provide however we have not had any salt to provide for over a month. 8/28/18 is when we finally received salt on our order. It was put out some.

PRINTED NAME

SIGNATURE

DATE

RANK/TITLE

SHIFT/DEPARTMENT



## GRIEVANCE INVESTIGATION WORKSHEET

Restricted &amp; Confidential

GRIEVANCE OFFICE USE  
ONLY

STEP 1 X

STEP 2

Unit: ML Investigator ID: I 1950 Date Initiated: 08/17/18 Date Completed: 09/26/18 Date Due: 09/26/18  
 Offender Name: FAIN, ROGER TDCJ No: 700474 Grievance Number: 2018183011

Issue Code:	EMERGENCY	ADA	( )	Property	( )	Use of Force (UOF)	( )
500	YES ( )	Disciplinary	( )	Religion	( )	Harassment or Retaliation*	( )
	NO (X)	Medical	( )	OPI Investigation	( )	PREA	( )

\*Harassment or Retaliation of Use of the Grievance Procedure, Access to Courts, or other Legal Activity

Note: Offenders are not allowed to review the grievance investigation worksheet at any time. For claims of sexual abuse, sexual assault, criminal acts by staff, Excessive or Unreported UOF, the investigation must be conducted by the Office of Inspector General (OIG) and the OIG Fact Sheet completed.

## Summary of Issue: (Include date, time and location):

See Attached Narrative

## Requested Remedy:

Give the offender population access to salt.

The following is to be completed and signed by the Investigating Official. Attach statements/supporting documentation, if applicable.

## Summary of Fact Finding Activity:


Statement - Food Service

## Suggested Response to Offender:

Your complaint has been reviewed. Investigation revealed that the Food Service Department contends at the time of your grievance there was a shortage of salt; however as of 8/27/18 salt was received and was sent out. No further action is warranted by this office.

OUTCOME CODE: D RESOLUTION CODE: 2.01

Investigating official completes the section below:

Printed Name: J. GarciaSignature: Title: Investigator IIIDate: 09/26/18

This grievance is being processed in an effort to resolve a problem through the established procedures identified in BP-03.77 and AD-0382. It is expressly prohibited to subject the grievant, other offenders, or staff to any form of reprisal for the use of these procedures.

Exhibit 1

006





# STEP 1 OFFENDER GRIEVANCE FORM

OFFICE USE ONLY

Grievance #: 2021 010196  
 Date Received: SEP 24 2020  
 Date Due: 11-03-2020  
 Grievance Code: 102  
 Investigator ID #: IL978  
 Extension Date: 12-13-2020  
 Date Retd to Offender: NOV 05 2020

Offender Name: ROGER FAIR TDCJ # 700474  
 Unit: J.B. CONNALLY Housing Assignment: 19Y-087  
 Unit where incident occurred: CONNALLY

You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? CHAPLAIN, I-60 When? 09-22-2020  
 What was their response? I WAS NOT APPROVED TO GROW MY HAIR  
 What action was taken? NONE

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate

ON SEPT. 10TH 2020, I WAS REASSIGNED TO THIS UNIT BASED ON MY RELIGION, NATIVE AMERICAN. OVER THE PAST SEVERAL DAYS, I HAVE BEEN CONFRONTED BY OFF SITE OFFICERS WORKING OVERTIME CONCERNING MY HAIR. I EXPLAINED THAT I AM A NATIVE AMERICAN, AND A FEDERAL COURT, SOUTHERN DISTRICT OF TEXAS, RESOLVED THE ISSUE. I WAS TOLD THIS WASN'T TRUE, AND I WROTE THE CHAPLAIN. HE STATED THAT THE NATIVE AMERICAN LAW SUIT "WAS NOT" A CLASS ACTION LAW SUIT, AND EVEN THO I AM RECOGNIZED AND DESIGNATED NATIVE AMERICAN BY STATE CLASSIFICATION COMMITTEE AND TDCJ-CID, I STILL CANNOT PRACTICE MY RELIGIOUS BELIEFS TOTALLY BECAUSE I STILL HAD TO ABIDE BY TDCJ-CID GROOMING STANDARDS. I NOW MUST BEGIN FROM THE GRIEVANCE PROCEDURE FORWARD TO TAKE THIS MATTER INTO FEDERAL COURT IRONICALLY THE SOUTHERN DISTRICT, THAT GRANTED RELIEF IN THE ORIGINAL CASE IN JANUARY OF 2019.

MY ISSUES WILL BE A VIOLATION OF THE 1ST AMENDMENT TO THE US CONSTITUTION, FREEDOM OF RELIGION; VIOLATION OF THE 14TH AMENDMENT TO THE US CONSTITUTION, EQUAL PROTECTION OF THE LAW, I.E. TDCJ-CID CANNOT TREAT ONE OFFENDER DIFFERENTLY WHEN THEY ARE SIMILARLY SITUATED, EVEN THE RUIZ OPINION STATES THIS, ALSO IN THE MUSLIM RELIGIOUS BOARD CASE A FEW YEARS AGO.



IT MAY BE ALLOWED TO GROW THEIR HAIR FOR RELIGIOUS REASONS, AND DENYING HUNDREDS OF OTHERS OF THE SAME RELIGION. ALL I AM ASKING IS TO BE ALLOWED TO PRACTICE MY RELIGION, RELIGIOUS FREEDOM, IN ITS ENTIRETY.

IF THIS MATTER IS LEFT UNRESOLVED, I'M SURE THAT THE FEDERAL COURT WILL ALLOW THE NEXT PROCEEDINGS TO BECOME CLASS ACTIONS FOR ALL TDCS-CID OFFENDERS SIMILAR TO WHAT HAPPENED WITH THE BOARDS.

Action Requested to resolve your Complaint:

I WOULD LIKE TO BE ALLOWED TO GROW MY HAIR IN ACCORDANCE WITH MY RELIGION, WITHOUT HARASSMENT, THREATS & RETALIATION.

Offender Signature:

*Kyle Fair*

Date: 09-23-2020

Grievance Response:

Your request has been forwarded to Huntsville for processing. There is no further action warranted by this office.

Assistant Warden J. Cirone

Signature Authority:

Date: 11/5/2020

If you are dissatisfied with the Step 1 response, you may submit a Step 2 (I-128) to the Unit Grievance Investigator within 15 days from the date of the Step 1 response. State the reason for appeal on the Step 2 Form.

Returned because: \*Resubmit this form when the corrections are made.

- ☐ 1. Grievable time period has expired.
- ☐ 2. Submission in excess of 1 every 7 days \*
- ☐ 3. Originals not submitted. \*
- ☐ 4. Inappropriate/Excessive attachments. \*
- ☐ 5. No documented attempt at informal resolution. \*
- ☐ 6. No requested relief is stated. \*
- ☐ 7. Malicious use of vulgar, indecent, or physically threatening language \*
- ☐ 8. The issue presented is not grievable
- ☐ 9. Redundant, Refer to grievance # \_\_\_\_\_
- ☐ 10. Illegible/Incomprehensible \*
- ☐ 11. Inappropriate \*

UGI Printed Name/Signature: \_\_\_\_\_

Application of the screening criteria for this grievance is not expected to adversely affect the offender's health.

Medical Signature Authority: \_\_\_\_\_

I-127 Back (Revised 11-2010)

### OFFICE USE ONLY

Initial Submission UGI Initials: \_\_\_\_\_  
 Grievance #: \_\_\_\_\_  
 Screening Criteria Used: \_\_\_\_\_  
 Date Recd from Offender: \_\_\_\_\_  
 Date Returned to Offender: \_\_\_\_\_  
 2<sup>nd</sup> Submission UGI Initials: \_\_\_\_\_  
 Grievance #: \_\_\_\_\_  
 Screening Criteria Used: \_\_\_\_\_  
 Date Recd from Offender: \_\_\_\_\_  
 Date Returned to Offender: \_\_\_\_\_  
 3<sup>rd</sup> Submission UGI Initials: \_\_\_\_\_  
 Grievance #: \_\_\_\_\_  
 Screening Criteria Used: \_\_\_\_\_  
 Date Recd from Offender: \_\_\_\_\_  
 Date Returned to Offender: \_\_\_\_\_

Exhibit 1

008.ppend

**TEXAS  
DEPARTMENT OF CRIMINAL  
JUSTICE**

**OFFENDER GRIEVANCE PROGRAM**

**NOTICE**

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**RESTRICTED  
AND  
CONFIDENTIAL**

**Exhibit 1**

**009**



## GRIEVANCE INVESTIGATION WORKSHEET

Restricted &amp; Confidential

GRIEVANCE OFFICE USE  
ONLY

STEP 1

STEP 2

Unit: CY Investigator ID: 1978 Date Initiated: 09/24/20 Date Completed: 11/04/20 Date Due: 12/13/20  
 Offender Name: Fain, Roger TDCJ No: 700474 Grievance Number: 2021010196

Issue Code:	EMERGENCY	ADA	( )	Property	( )	Use of Force (UOF)	( )
102	YES ( )	Disciplinary	( )	Religion	(X)	Harassment or Retaliation*	( )
	NO (X)	Medical	( )	OPI Investigation	( )	PREA	( )

\*Harassment or Retaliation of Use of the Grievance Procedure, Access to Courts, or other Legal Activity

Note: Offenders are not allowed to review the grievance investigation worksheet at any time. For claims of sexual abuse, sexual assault, criminal acts by staff, Excessive or Unreported (U) the investigation must be conducted by the Office of Inspector General (OIG) and the OIG Level Sheet completed

## Summary of Issue: (Include date, time and location):

09-10-2020 he was assigned to this unit due to his native American religion and over the past several days has been confronted by several officers about his hair. Has explained that he is native American and federal court resolved the issue. Wrote the Chaplain and he stated that the native American law suit was not a class action lawsuit and even though he is recognized and designated as native American by SCC and TDCJ he still cannot practice his religious beliefs because he still has to abide by TDCJ grooming standards. His issues will be a violation of the 1st amendment freedom of religion.

## Requested Remedy:

to be allowed to grow his hair in accordance with his religion without harassment and threats and retaliation

The following is to be completed and signed by the Investigating Official. Attach statements/supporting documentation, if applicable.

## Summary of Fact Finding Activity:

\*Chaplain states the offender submitted a HQ-150 request to grow long hair. The request has been forward to Huntsville and is being processed.

\*extension form

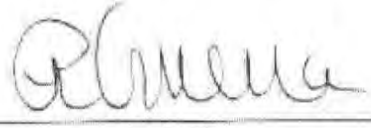
## Suggested Response to Offender:

Your request has been forwarded to Huntsville for processing. There is no further action warranted by this office.

OUTCOME CODE: D RESOLUTION CODE: 2 01

Investigating official completes the section below:

Printed Name: R. Guerra

Signature: 

Title: Investigator II

Date: 11/04/20

This grievance is being processed in an effort to resolve a problem through the established procedures identified in BP-03 and AD-0382. It is expressly prohibited to subject the grievant, other offenders, or staff to any form of reprisal for the use of these procedures.

Exhibit 1

010

## GRIEVANCE INVESTIGATION WORKSHEET

Restricted &amp; Confidential

GRIEVANCE OFFICE USE  
ONLY

STEP 1

STEP 2

Unit: CY Investigator ID: 1978 Date Initiated: 09/24/20 Date Completed: \_\_\_\_\_ Date Due: 11/03/20Offender Name: Fain, Roger TDCJ No: 700474 Grievance Number: 2021010196

Issue Code:	EMERGENCY	ADA	( )	Property	( )	Use of Force (UOF)	( )
102	YES ( )	Disciplinary	( )	Religion	(X)	Harassment or Retaliation*	( )
	NO (X)	Medical	( )	OPI Investigation	( )	PREA	( )

\*Harassment or Retaliation of Use of the Grievance Procedure, Access to Courts, or other Legal Activity

Note: Offenders are not allowed to review the grievance investigation worksheet at any time. For claims of sexual abuse, sexual assault, criminal acts by staff, Excessive or Unreported UOF, the investigation must be conducted by the Office of Inspector General (OIG) and the OIG Fact Sheet completed.

## Summary of Issue: (Include date, time and location):

09-10-2020 he was assigned to this unit due to his native American religion and over the past several days has been confronted by several officers about his hair. Has explained that he is native American and federal court resolved the issue. Wrote the Chaplain and he stated that the native American law suit was not a class action lawsuit and even though he is recognized and designated as native American by SCC and TDCJ he still cannot practice his religious beliefs because he still has to abide by TDCJ grooming standards. His issues will be a violation of the 1st amendment freedom of religion.

## Requested Remedy:

to be allowed to grow his hair in accordance with his religion without harassment and threats and retaliation

The following is to be completed and signed by the Investigating Official. Attach statements/supporting documentation, if applicable.

## Summary of Fact Finding Activity:

\*Chaplain

## Suggested Response to Offender:

OUTCOME CODE: \_\_\_\_\_ RESOLUTION CODE: \_\_\_\_\_

Investigating official completes the section below:

Printed Name: R. Guerra Signature: \_\_\_\_\_Title: Investigator II Date: \_\_\_\_\_

This grievance is being processed in an effort to resolve a problem through the established procedures identified in BP-03.77 and AD-0382. It is expressly prohibited to subject the grievant, other offenders, or staff to any form of reprisal for the use of these procedures.

Exhibit 1

011



Step 1	<input checked="" type="checkbox"/>	Grievance #	Offender Name	TDCJ #	Unit
Step 2	<input type="checkbox"/>	2021010196	Fain, Roger	700474	CY



## Texas Department of Criminal Justice

### NOTICE OF EXTENSION

#### Offender Grievance Office

In accordance with the procedures outlined in BP-03.77, "Offender Grievances," and AD-03.82, "Management of Offender Grievances," you are hereby notified that additional time is necessary to complete the investigation of your:

**Step 1 Grievance:** (check the applicable box)

- ☐ An additional 30 days is needed for appropriate response to your disciplinary appeal.
- ☒ An additional 40 days is needed for appropriate response to your grievance.
- ☐ An additional 45 days is needed for appropriate response to your medical Step 1 grievance.

**Step 2 Grievance:** (check the applicable box)

- ☐ An additional 30 days is needed for appropriate response to your disciplinary appeal.
- ☐ An additional 40 days is needed for appropriate response to your Step 2 grievance.
- ☐ An additional 45 days is needed for appropriate response to your medical Step 2 grievance.

*R. Guerra*  
R. Guerra/Investigator II

Name and Title

11-03-2020

Date

Original – Send to the Offender

Copy – Attach to the Grievance

**Texas Department of Criminal Justice  
Institutional Division**

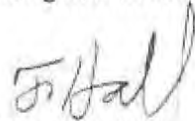
**Inter-Office Communications**

**To:** Whom It May Concern **Date:** 11/03/2020  
**From:** Chaplain Hall **Subject:** Grievance #2021010196

**RE: Offender Fain, Roger #700474**

On 10/01/2020 the offender submitted a HQ-150 request to grow long hair due to his religious beliefs. This request was forwarded to Huntsville and is now being processed.

Until such time that the Religious Practices Committee makes a final decision, the offender is obligated to follow grooming standards according to existing policy.

  
Chaplain Hall  
11/03/2020



## Texas Department of Criminal Justice

STEP 1 OFFENDER  
GRIEVANCE FORM

Offender Name: LEGER FAIN TDCJ # 00700474  
 Unit: STILES Housing Assignment: 4D3 60B  
 Unit where incident occurred: STILES UNIT

## OFFICE USE ONLY

Grievance #: 2020013075  
 Date Received: SEP 27 2019  
 Date Due: 11-06-19  
 Grievance Code: 200  
 Investigator ID #: 2109 F2534  
 Extension Date: \_\_\_\_\_  
 Date Retd to Offender: PAR 27 2019

You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? SEVERAL I-603 TO CLASSIFICATION When? DURING SEPT. 19

What was their response? IGNORED, NO REPLY

What action was taken? NONE, OFFICIALS REFUSED TO ADDRESS NUMEROUS I-603

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate

IT IS MY BELIEF, AND UNDERSTANDING OF TDCJ-CID REGULATIONS AND POLICY CONCERNING HOUSING ASSIGNMENT, AND WHO CAN BE HOUSED TOGETHER, THAT I AM INAPPROPRIATELY HOUSED WITH A CELMIE WHO DOES NOT MET THE PROPER CRITERIA OF AGE DIFFERENCE, WEIGHT DIFFERENCE THAT TDCJ-CID HAS SET FORTH.

FURTHERMORE, IT IS MY BELIEF THAT I AM HOUSED BASED ON CONVENIENCE OF THE UNITS CLASSIFICATION AND COUNT ROOM, NOT BASED ON PROPER TDCJ-CID POLICY WHOSE THERE IS TO BE A WEIGHT DIFFERENCE OF ABOUT 20 POUNDS, AND AGE DIFFERENCE OF ABOUT 15 YEARS OF AGE.

BASED ON THESE FACTS, THE AGE DIFFERENCE BETWEEN MY CELMIE AND I IS 40 YEARS, WEIGHT DIFFERENCE OF ABOUT 35 TO 40 POUNDS.

I HAVE WRITTEN THE COUNTREROOM AND CLASSIFICATION NUMEROUS TIMES CONCERNING LIVING IN THE OUTSIDE BORMS. I WAS ASSIGNED TO 19 BUILDING Y-BORM ON THE WM.G. MCCONNELL UNIT ON FEB. 19 APRIL 2014, LIVED IN THE SAME CUBICLE UNTIL I WAS BENCH WARRANTED BACK TO TARRANT COUNTY ON MARCH 19<sup>TH</sup> 2019, 5 YEARS I WAS ALLOWED TO BE HOUSED ON 19 BUILDING. PRIOR TO THAT, I HAVE LIVED IN BORMS ON EASTHAM AND ELLIS UNITS SINCE OCTOBER OF 1998.

ON INTAKE UCC- THE REVIEWING MAJOR HAD NO PROBLEM WITH ME GOING TO THE OUTSIDE BORMS, SINCE I HAVE 25 YEARS FLAT



COMPLETED ON MY SENTENCE.  
 THE ONE AND ONLY REPLY I'VE RECEIVED FROM THE COURT ROOM,  
 UNSIGNED, WAS TO TELL ME I WAS NOT DORM ELIGIBLE.  
 THE MATTER PRESENTED HAS NEVER AROSE BEFORE DUE TO MY  
 LIVING IN A DORM ENVIRONMENT. THIS MATTER CAN BE RESOLVED  
 IF I AM ALLOWED TO LIVE IN 12 OR 19 DORM, IN A CUBICLE.  
 I WOULD LIKE TO MAKE THIS CLEAR, I AM NOT HAVING ANY PROBLEM  
 WITH MY CELLIE, ALL I'M STATING IS I'M IN APPROPRIATELY HOUSED AND  
 I'VE LIVED IN A OPEN DORM ENVIRONMENT FOR THE PAST 21 YEARS.

Action Requested to resolve your Complaint.

WOULD LIKE TO BE ALLOWED TO LIVE IN THE DORMS, THIS WOULD  
 RESOLVE THIS MATTER.

Offender Signature:

*Robert Train #700474*

Date: 09-26-2019

Grievance Response:

Your grievance was investigated. You are appropriately housed according to your restrictions and custody classification. You do not meet the eligibility requirements for dorm housing at the Stiles Unit, and it is noted you are not assigned a cellmate. No further action is warranted.

*Kevin Smith*

Signature Authority:

*K. J.*

Date: 3-25-20

If you are dissatisfied with the Step 1 response, you may submit a Step 2 (I-128) to the Unit Grievance Investigator within 15 days from the date of the Step 1 response.  
 State the reason for appeal on the Step 2 Form.

Returned because: \*Resubmit this form when the corrections are made.

- ☐ 1. Grievable time period has expired.
- ☐ 2. Submission in excess of 1 every 7 days \*
- ☐ 3. Originals not submitted. \*
- ☐ 4. Inappropriate/Excessive attachments. \*
- ☐ 5. No documented attempt at informal resolution. \*
- ☐ 6. No requested relief is stated. \*
- ☐ 7. Malicious use of vulgar, indecent, or physically threatening language. \*
- ☐ 8. The issue presented is not grievable.
- ☐ 9. Redundant, Refer to grievance # \_\_\_\_\_
- ☐ 10. Illegible/Incomprehensible \*
- ☐ 11. Inappropriate. \*

UGI Printed Name/Signature: \_\_\_\_\_

Application of the screening criteria for this grievance is not expected to adversely affect the offender's health.

Medical Signature Authority: \_\_\_\_\_

Exhibit 1

### OFFICE USE ONLY

Initial Submission UGI Initials: \_\_\_\_\_  
 Grievance #: \_\_\_\_\_  
 Screening Criteria Used: \_\_\_\_\_  
 Date Recd from Offender: \_\_\_\_\_  
 Date Returned to Offender: \_\_\_\_\_  
 2<sup>nd</sup> Submission UGI Initials: \_\_\_\_\_  
 Grievance #: \_\_\_\_\_  
 Screening Criteria Used: \_\_\_\_\_  
 Date Recd from Offender: \_\_\_\_\_  
 Date Returned to Offender: \_\_\_\_\_  
 3<sup>rd</sup> Submission UGI Initials: \_\_\_\_\_  
 Grievance #: \_\_\_\_\_  
 Screening Criteria Used: \_\_\_\_\_  
 Date Recd from Offender: \_\_\_\_\_  
 Date Returned to Offender: \_\_\_\_\_



**TEXAS  
DEPARTMENT OF CRIMINAL  
JUSTICE**

**OFFENDER GRIEVANCE PROGRAM**

**NOTICE**

All documentation that follows this sheet is restricted and confidential and is not to be released without the authorization of the administrator of offender grievances.

**RESTRICTED  
AND  
CONFIDENTIAL**

## GRIEVANCE INVESTIGATION WORKSHEET

Restricted &amp; Confidential

<b>GRIEVANCE OFFICE USE ONLY</b>		<b>STEP 1 X</b>	
<b>STEP 2</b>			
Unit: <u>ST</u>	Investigator ID: <u>12619</u>	Date Initiated: <u>9/27/19</u>	Date Completed: <u>3/26/20</u> Date Due: <u>11/6/19</u>
Offender Name: <u>Fain Roger</u>	TDCJ No: <u>700474</u>	Grievance Number: <u>2020013075</u>	
Issue Code: <u>200</u>	<b>EMERGENCY</b> YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	<b>ADA</b> <input type="checkbox"/> <b>Disciplinary</b> <input type="checkbox"/> <b>Medical</b> <input type="checkbox"/>	<b>Property</b> <input type="checkbox"/> <b>Religion</b> <input type="checkbox"/> <b>OP1 Investigation</b> <input type="checkbox"/>
			<b>Use of Force (UOF)</b> <input type="checkbox"/> <b>Harassment or Retaliation*</b> <input type="checkbox"/> <b>PREA</b> <input type="checkbox"/>
*Harassment or Retaliation of Use of the Grievance Procedure, Access to Courts, or other Legal Rights			
Note: Offenders are not allowed to review the grievance investigation worksheet at any time. For claims of sexual abuse, sexual assault, criminal acts by staff, Excessive or Unreported UOF, the investigation must be conducted by the Office of Inspector General (OIG) and the OIG Fact Sheet completed.			
<b>Summary of Issue: (Include date, time and location):</b> Claims he is inappropriately housed with another offender that does not meet proper criteria of age difference and weight difference. Claims he was housed on a dorm on McConnell, Eastham and Ellis and upon Intake UCC the Major had no problem with him going to the outside dorm. Classification only answered an I-60 stating he was not eligible, but did not tell him why.			
<b>Requested Remedy:</b> Investigate			

The following is to be completed and signed by the Investigating Official. Attach statements/supporting documentation, if applicable.

**Summary of Fact Finding Activity:**

1. Extension
2. Case Manager II T. Brazil - offender not eligible for dorm due to offense (Capital Murder) housing assignment screening criteria in place by unit administration. Offender is not assigned a cellmate at this time.
2. Classification Procedure Manual 4.0 Housing Assignment
3. HSIN screen, assignment history screen

**Suggested Response to Offender:**

Your grievance was investigated. You are appropriately housed according to your restrictions and custody classification. You do not meet the eligibility requirements for dorm housing at the Stiles Unit and it is noted you are not assigned a cellmate. No further action is warranted.

OUTCOME CODE: D RESOLUTION CODE: 2.01

Investigating official completes the section below:

Printed Name: M. PonderSignature: Title: INV IIIDate: 3/26/20

This grievance is being processed in an effort to resolve a problem through the established procedures identified in BP-03.77 and AD-0382. It is expressly prohibited to subject the grievant, other offenders, or staff to any form of reprisal for the use of these procedures.



GRIEVANCE INVESTIGATION WORKSHEET

Official Statement

Unit: ST Staff Name: T Brazile Classification: Classification Grievance #: 2020013075 Date: 9/27/19  
 Offender Name: Fain, Roger TDCJ#: 700474 Housing Location: 4-D 60 b

In accordance with HP 03.77, you are required to participate in this investigation as noted. Address each allegation thoroughly. Do not respond with indefinite answers such as "I don't know" or "I have no knowledge of". If you have no knowledge, explain the reason why (e.g., I was on vacation, I was not assigned there, etc.). Your answers are to be factual, professional, and complete. Do not include opinions or unrelated comments. Remember, the Executive Director, Office of the Inspector General (OIG), Attorney General's Office and State and Federal Court Officials may review your response. All grievances are confidential and may not be discussed between you and the offender or with other individuals. You are expected to return this investigation within 10 working days of receipt. Additional time may be requested by contacting the grievance investigator. Sign and date the form in the designated locations when completed and return it to the Unit Grievance Office. If you were provided a narrative copy of the grievance, it must also be returned to the Unit Grievance Office. The grievance may not be duplicated or shared with the accused staff member.

Please Provide the Following Documents

- |  |   |
|--|---|
| <input type="checkbox"/> Participant(s) Statement                    |   |
| <input type="checkbox"/> Witness (es) Statement (signed)             |   |
| <input type="checkbox"/> Activity Logs (Recreation, Shower, Feeding) | <input type="checkbox"/> Other                                      |
| <input type="checkbox"/> Shift Roster                                | <input type="checkbox"/> Staff or Offender Protection Investigation |
| <input type="checkbox"/> Ingress/Egress Log                          | <input type="checkbox"/> Property Inventory Forms                   |
| <input type="checkbox"/> Property Confiscation Form                  | <input type="checkbox"/> Property Logs                              |

**ALLEGATIONS:**

Claims he is inappropriately housed with another offender that does not meet proper criteria of age difference and weight difference. Claims he was housed on a dorm on McConnell, Eastham and Ellis and upon Intake UCC the Major had no problem with him going to the outside dorm. Classification only answered an I-60 stating he was not eligible. Wants to be moved to dorm. CLASSIFICATION WHY IS OFFENDER NOT ELIGIBLE FOR DORM? IS THERE AN AGE/WEIGHT CRITERIA FOR CELLMATES?

**EMPLOYEE STATEMENT:**

PRINTED NAME

SIGNATURE

DATE

RANK/TITLE

SHIFT/DEPARTMENT

SUPERVISOR COMMENTS: Offender Fain, Roger 700474 is not eligible for the dorms due to his offense of Capital Murder.  
Also there is an age/weight criteria for cellmates

PRINTED NAME

SIGNATURE

DATE

RANK/TITLE

SHIFT/DEPARTMENT

CSHS1802

T.D.C.J. - INSTITUTIONAL DIVISION  
HEALTH SUMMARY FOR CLASSIFICATION SYSTEM  
INQUIRY

DATE: 03/12/20  
TIME: 09:30:38

TDCJ-ID #: 00700474 SID #: 04497012

NAME: FAIN, ROGER

HT 6'00" WT 222

DOB: [REDACTED]

UNIT: ST HOUSING: 4D32-60B

JOB: UTILITY GEN SQ 1ST A SIDE

F	U	L	E	E	S
3	3	1	1	2	1
C	C	A	A	B	A
P	P			P	

RESTRICTIONS HEAT SENSITIVITY SCORE: I

UNIT: NO RESTRICTION

EXTENDED MED HRS: TRUSTY CAMP SUITABLE:

HOUSING: NO RESTRICTION

WHEELCHAIR USE: NO RESTRICTI

BUNK: LOWER ONLY

ROW: NO RESTRICTIONS

WORK: W09 W14 W16

DISCIPLINARY PROCESS: NO RESTRICTION

INDIVIDUALIZED TREATMENT PLAN:

TRANSPORTATION RESTRICTIONS: NO RESTRICTION

REVISED BY: UTMBFTP

REVISED DATE: 01 06 2020

PF1 -HELP PF3 -MENU PF4 -ADDITIONAL INFO PF7 -UP PF8 -DOWN

ENTER NEXT REQUEST:/IDCNO: \_\_\_\_\_ OR SIDNO: \_\_\_\_\_



CSIUCR15/CSUC15 TDC UNIT CLASSIFICATION REVIEW CURRENT DATE: 03/12  
INMTCICS/MP01664 HOUSING/JOB ASSIGNMENT HISTORY AND TIME: 08:39:  
7200/UC15 INMATE NAME: FAIN, ROGER TDCNO: 00700474

HOUSING				JOB ASGN				JOB				
---HOUSING---				---INM/HSG---				---JOB---				
DATE	UNIT	---ASGNMNT---	CUST	AUTH	DATE	---	ASSIGNMENT---	---	---	---	AUT	
-----HOUSING COMMENT-----				-----JOB COMMENT-----								
08/30/19	ST	4D32	60 B	G2	GA	JW	08/30/19	UTILITY GEN SQ 1ST A	SED	JW		
JW/MLG								JW/MLG				
08/30/19	ST	UNASGN		G2	TR		08/28/19	TRANSIENT CUSTODY OVERFL	UC			
08/28/19	ST	11TRA	35 B	G2	TR	UCC	UCC/RDO					
UCC/RDO								08/21/19 UNASGN PENDING SCC DOCKE				PA
08/28/19	DU	UNASGN		G2	TR		08/12/19 TRANSIENT PEND DIAG PROC				RP	
08/12/19	DU	C10	03 B	G2	TR	RRW	INTAKE					
08/12/19	NE	UNASGN		G2	TR		08/07/19 TRANSIENT NON-ROUTINE				TR SE	
08/07/19	NE	GTR	17 B	G2	TR	SB	12/04/18 I/S MED SQ 01				KS	
03/19/19	ML	UNASGN		G2	G2		05/30/18 I/S MED SQ 03				RS	
04/17/14	ML	19Y	007	G2	G2	MEA	11/18/14 QUALITY ASSURANCE TECH 1				GM	
DORM ELIG								02/24/14 GARMENT INSPECTOR 1ST				CC

MORE HOUSING/JOB AVAILABLE

NEXT TRANS CODE: 02 AND/OR TDCNO \_\_\_\_\_  
AND/OR SIDNO \_\_\_\_\_

F1-HELP F3-MAIN MENU F7/F8-UP/DOWN F10-MAX UP F12-ME

Step 1	<input checked="" type="checkbox"/>	Grievance #	Offender Name	TDCJ #	Unit
Step 2	<input type="checkbox"/>	2020013075	Fain, Roger	700474	ST



## Texas Department of Criminal Justice

### NOTICE OF EXTENSION

#### Offender Grievance Office

In accordance with the procedures outlined in BP-03.77, "Offender Grievances," and AD-03.82, "Management of Offender Grievances," you are hereby notified that additional time is necessary to complete the investigation of your:

#### Step 1 Grievance: (check the applicable box)

- ☐ An additional 30 days is needed for appropriate response to your disciplinary appeal.
- ☒ An additional 40 days is needed for appropriate response to your grievance.
- ☐ An additional 45 days is needed for appropriate response to your medical Step 1 grievance.

#### Step 2 Grievance: (check the applicable box)

- ☐ An additional 30 days is needed for appropriate response to your disciplinary appeal.
- ☐ An additional 40 days is needed for appropriate response to your Step 2 grievance.
- ☐ An additional 45 days is needed for appropriate response to your medical Step 2 grievance.

S. THOMAS, UGI III

Name and Title

11/9/19

Date

Original – Send to the Offender

Copy – Attach to the Grievance



CSIUCR01/CSUC01. XXX UNIT CLASSIFICATION REVIEW DATE OF REVIEW: 03 24 20  
INMTCICS/MPO1664 CUSTODY ASSIGNMENT WORKSHEET CST/REVIEW CDE: G2 / /  
7290/UC01 SUBSEQ REVIEW DTE/CDE: /  
INMATE NAME: FAIN, ROGER RACE/SEX: W/M HSG AT REVIEW: ST 4D32 60  
TDCNO: 00700474 STAT: S3 1  
\*\*\*\*\*  
\*INIT CLASSIFICATION\* DISCP HISTORY: 3MTH/6MTH/1YR/2YR/3YR\* ADD'L INFORMATION  
\*\*\*\*\*  
\*VIOLENT CRIME \* LVL 1 OR 2 . . 00 00 00 00 00 \*DETAINER. . . . 1.  
\* AGAINST PERSON Y \* STAFF ASLTS . 00 00 00 00 00 \*HOMOSEXUAL. . . . 1.  
\*\*\*\*\* INMATE ASLTS. 00 00 00 00 00 \*SEX ASLT VICTIM .  
\*PREV 2-YR ASLT HIST\* ASLTS W/WP-SM 00 00 00 00 00 \*POTENTIAL VICTIM. ?  
\*\*\*\*\* INCIDENTS: MA 00 00 00 00 00 \*  
\* STAFF/INM\* MM 00 00 00 00 00 \*PAROLE CALC CODE. ?  
\* TDC . . . . N N \* MI 00 00 00 00 00 \*RISK  
\* JAIL. . . . N N \* ESCAPE. . . . 00 00 00 00 00 \*PREC:  
\* HOSPITAL. . N N \* LVL 3. . . . 00 00 00 00 00 \*TTL 00000 07/29/95  
\* JUVENILE. . N N \* \*P/V N  
\* OTH PRISONS N N \* ASLT HIST (MAJORS ONLY): 1-YR: N \*  
\* \* 2-YR: N \*  
RECOMMENDATIONS: GP LEVEL 2 / DORM  
ENTER THE NEXT TRANS CODE 01 AND/OR TDCNO \_\_\_\_\_  
AND/OR SIDNO \_\_\_\_\_  
PF1-HELP, PF3-PREV, PF4-CURR, PF10-GC ONLY



## Texas Department of Criminal Justice



# STEP 1

## OFFENDER GRIEVANCE FORM

OFFICE USE ONLY

Grievance #: \_\_\_\_\_

Date Received: \_\_\_\_\_

Date Due: \_\_\_\_\_

Grievance Code: \_\_\_\_\_

Investigator ID #: \_\_\_\_\_

Extension Date: \_\_\_\_\_

Date Retd to Offender: \_\_\_\_\_

Offender Name: Roger Fain TDCJ # 00700474Unit: Mark W. Stiles Housing Assignment: 4 F 2 - 40BUnit where incident occurred: Stiles

You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? Grievance Process April 28th 2020 When? \_\_\_\_\_What was their response? Wardens Response was "Your Claims Noted. No Evidence Found..." JUN 26 2020What action was taken? None. Warden Kevin Smith stated "No Further Action Warranted By This Office."

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate. The Grievance Process, I-127 is the avenue of an Offender against a Agency Employee. This avenue is also required to pursue a 42 USC §1983 into the Federal Courts. Pursuant to PATTERSON v. STANLEY, 547 Fed.Appx. 510(Fifth Circuit Court of Appeals 2013), states: "The primary purpose of a grievance is to 'alert' prison officials to a problem, not to provide personal notice for a particular official that may be sued." JUN 26 2020

April 28th 2020, I brought to the attention of the Administration a problem concerning the DFH the lack of it being denied to those of us that are on it. On June 20th 2020, Warden Kevin Smith signed off on the Grievance, #2020112559, stating that the Food Service department was aware of my DFH, and he further stated that I was being afforded a DFH meal daily in accordance with the food service policy. Here Warden Smith either knowingly, or unknowingly signed off on a document that was "Fraudulent" thus is in violation of TDCJ-CID PD-22, Rule 10, Falsification of Records. Furthermore, Warden Smith is in violation of the 8th Amendment to the United States Constitution for "Cruel & Unusual Punishment," i.e. deliberate Administrative Indifference to a serious medical need, I am on this Unit for medical reasons, yet the Medical Department has taken my heat restrictions, and now the Food Service Department is denying me my DFH meals during this lockdown. Because Warden Smith "rubber stamped" the Grievance Investigator's answer, he has failed to do his job, thus has violated PD-22 Rule #7, Substandard Duty Performance. Furthermore, by failing to properly investigate, and intervene, he is also in violation of Texas Penal Codes §39.02(a)(1) and §39.03(a)(1)(2). These allegations can be substantiated by the actual kitchen daily meal out put or by the record that I have from April 15th 2020 til present concerning what was given to me and other DFH people, and it sure isn't what is required by the UTMB-CMHC Therapeutic Dietary Policy & Procedure Manual that is available to population thru the Law Library. This Manual is what the Food Service Department/Manager is supposed to follow, yet has totally ignored because



those on the Unit who are to oversee these matters has chosen to ignore the matter, it is very apparent that the TDCJ-CID Motto, which is on State Agency issued hats, "We Take Care Of Our Own" thus meaning that no matter if an Employee is right or wrong, the Offender is never right. By granting relief to an Offender's Grievance means that they are taking care of the Offender, not their own. Also by denying me and others our Medically prescribed DFH, Food Service and this Administration is putting the Offender's in a position to become seriously ill, and possibly leading to our deaths. I have brought this matter to the attention of the Administration thru the Grievance and I-60's to Food Service, Grievance on June 2nd, 2020, #2020112559, stating it as an Emergency, it was returned as being "Redundant" #9. The matter hasn't been addressed properly, nor am I satisfied with what is happening, I DO NOT WISH TO HAVE HEALTH ISSUES OR DEATH!!

Action Requested to resolve your Complaint.

By the very fact of the indifference to my medical needs this Administration has put me and other in harm's way, and without intervention, the lack of proper DFH meals can and will cause problems

Offender Signature:

*Robert Tal 700474*

Date: June 24th 2020

Grievance Response:

Signature Authority:

Date:

If you are dissatisfied with the Step 1 response, you may submit a Step 2 (I-128) to the Unit Grievance Investigator within 15 days from the date of the Step 1 response. State the reason for appeal on the Step 2 Form.

Returned because: \*Resubmit this form when the corrections are made.

- ☐ 1. Grievable time period has expired.
- ☐ 2. Submission in excess of 1 every 7 days. \*
- ☐ 3. Originals not submitted. \*
- ☐ 4. Inappropriate/Excessive attachments \*
- ☐ 5. No documented attempt at informal resolution. \*
- ☐ 6. No requested relief is stated. \*
- ☐ 7. Malicious use of vulgar, indecent, or physically threatening language. \*
- ☐ 8. The issue presented is not grievable.
- ☒ 9. Redundant. Refer to grievance # 2020141143
- ☐ 10. Illegible/Incomprehensible. \*
- ☐ 11. Inappropriate. \*

UGI Printed Name/Signature:

*S. Thomas / [Signature]*

Application of the screening criteria for this grievance is not expected to adversely affect the offender's health.

Medical Signature Authority:

# OFFICE USE ONLY

Initial Submission

UGI Initials:

*ST*

Grievance #:

*2020141143*

Screening Criteria Used:

*C9 #599*

Date Recd from Offender:

*06-26-20*

Date Returned to Offender:

*06-26-20*

2nd Submission

UGI Initials:

Grievance #:

Screening Criteria Used:

Date Recd from Offender:

Date Returned to Offender:

3rd Submission

UGI Initials:

Grievance #:

Screening Criteria Used:

Date Recd from Offender:

Date Returned to Offender:



## Texas Department of Criminal Justice



# STEP 1 OFFENDER GRIEVANCE FORM

## EMERGENCY FOR HEALTH REASONS

Offender Name: ROGER PAW TDCJ # 700474  
 Unit: STILES Housing Assignment: 4F 2-40B  
 Unit where incident occurred: STILES

## OFFICE USE ONLY

Grievance #: \_\_\_\_\_  
 Date Received: \_\_\_\_\_  
 Date Due: \_\_\_\_\_  
 Grievance Code: \_\_\_\_\_  
 Investigator ID #: \_\_\_\_\_  
 Extension Date: \_\_\_\_\_  
 Date Reid to Offender: \_\_\_\_\_

You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? NUMEROUS I-60's, I-127 TO RIF-CMT. When? APRIL - JUNE

What was their response? IGNORED, NO RESPONSE

What action was taken? HOLD

state your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate

I AM ON THE DIET FOR HEALTH FOR MEDICAL REASONS, THIS  
DIET IS PRESCRIBED BY UTMBS-CMHC PROVIDOR, AND BY THE  
CHIEF DIETITION, ASHOK R. KUCHUKUKKA. I AM UTILIZING  
THE FY 19 DFH MENU PROVIDED BY THE LAW LIBRARY, CMHC-  
THERAPEUTIC DIETARY POLICY & PROCEDURES MANUAL DATED  
SEPTEMBER 2018.

THE KITCHEN MANAGER CAPTAIN'S OBSERVANCE OF POLICY  
IS SOLELY LACKING. WE KNOW THAT OBSERVANCE OF POLICY IS  
NOT ALWAYS CONVENIENT, BUT SHE OPERATES HOW KITCHEN TO  
HOW CONVENIENCE. SHE SERVES/PREPARES MEALS THAT ARE  
NOT A PART OF THE CMHC-THERAPEUTIC DIETARY POLICY SET  
FOORTH IN THE HEALTH SERVICES DEPARTMENTS GUIDELINES.  
IT IS CONVENIENT FOR THE KITCHEN TO FEED "EVERYONE" THE  
SAME MEAL, THAN TO FOLLOW DFH POLICY.

THIS GRIEVANCE IS FILED OUT OF NEED FOR HEALTHIER SACK  
MEALS, BY HOW NOT FOLLOWING POLICY, SHE IS INDIFFERENT TO  
MY HEALTH ISSUES, SHE IS KNOWINGLY, INTENTIONALLY, INDIF-  
FERENT TO UTMBS-CMHC PROVIDOR'S DIETARY ORDERS, AS TO  
WHAT I AM TO BE FED, THUS OVER RIDING THE MEDICAL PRO-  
VIDOR DUE TO THE FACT THAT TO FOLLOW THE APPROVED DFH  
IS TO MUCH OF AN INCONVENIENCE, INSTEAD OF FOLLOWING  
DFH POLICY SHE FEEDS WHAT EVER IS ON THE REGULAR  
LINE FOR THE GENERAL POPULATION. THIS UNIT IS DESIGNATE



AS A MEDICAL FACILITY, THAT INCLUDES THE DCT.  
THUS SHE IS VIOLATING THE 1<sup>ST</sup> AMENDMENT TO THE U.S.  
CONSTITUTION, THE 14<sup>TH</sup> AMENDMENT TO THE U.S. CONSTITUTION  
AS WELL AS VIOLATING THE RUIZ SETTLEMENT. THE GRIE  
VANCE PROCEDURE IS NECESSARY TO PURSUE THIS MATTER IF  
THIS MATTER CANNOT OR WILL NOT BE RESOLVED, MEANING  
THAT THE KITCHEN FOLLOW THE CMHC DIETARY GUIDELINES.

JUN 04 2020

Action Requested to resolve your Complaint:

WOULD LIKE TO RECEIVING THE PROPER DFT. SICK NOTES DURING  
A LOCKDOWN, AND DURING REGULAR DAILY CHW HALL NOTES.

Offender Signature: \_\_\_\_\_

Date: JUNE 2ND 2020

Grievance Response: \_\_\_\_\_

Signature Authority: \_\_\_\_\_

Date: \_\_\_\_\_

If you are dissatisfied with the Step 1 response, you may submit a Step 2 (I-128) to the Unit Grievance Investigator within 15 days from the date of the Step 1 response.  
State the reason for appeal on the Step 2 Form.

Returned because: \*Resubmit this form when the corrections are made.

- ☐ 1. Grievable time period has expired
- ☒ 2. Submission in excess of 1 every 7 days. \*
- ☐ 3. Originals not submitted \*
- ☐ 4. Inappropriate Excessive attachments \*
- ☐ 5. No documented attempt at informal resolution \*
- ☐ 6. No requested relief is stated \*
- ☐ 7. Malicious use of vulgar, indecent, or physically threatening language. \*
- ☐ 8. The issue presented is not grievable.
- ☐ 9. Redundant, Refer to grievance # \_\_\_\_\_
- ☐ 10. Illegible/Incomprehensible. \*
- ☐ 11. Inappropriate. \*

UGI Printed Name/Signature: \_\_\_\_\_

Application of the screening criteria for this grievance is not expected to adversely  
Affect the offender's health.

Medical Signature Authority: \_\_\_\_\_

Exhibit 1

I-127 Back (Revised 11-2010)

OFFICE USE ONLY	
Initial Submission	UGI Initials: <u>YR</u>
Date Recd from Offender: <u>2020/3/26/1</u>	
Screening Criteria Used: <u>02/599</u>	
Date Recd from Offender: <u>JUN 04 2020</u>	
Date Returned to Offender: <u>JUN 04 2020</u>	
2 <sup>nd</sup> Submission	UGI Initials: _____
Grievance #: _____	
Screening Criteria Used: _____	
Date Recd from Offender: _____	
Date Returned to Offender: _____	
3 <sup>rd</sup> Submission	UGI Initials: _____
Grievance #: _____	
Screening Criteria Used: _____	
Date Recd from Offender: _____	
Date Returned to Offender: _____	

026





## Texas Department of Criminal Justice

# STEP 1 OFFENDER GRIEVANCE FORM

## EMERGENCY FOR HEALTH REASONS

Offender Name: ROGER PAW ID #: 700474  
 Unit: STILES Housing Assignment: 4F 2-40B  
 Unit where incident occurred: STILES

## OFFICE USE ONLY

Grievance #: \_\_\_\_\_  
 Date Received: \_\_\_\_\_  
 Date Due: \_\_\_\_\_  
 Grievance Code: \_\_\_\_\_  
 Investigator ID #: \_\_\_\_\_  
 Extension Date: \_\_\_\_\_  
 Date Reid to Offender: \_\_\_\_\_

You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? NUMEROUS I-60's, I-127 TO RIF-CMT. When? APRIL - JUNE  
 What was their response? IGNORED, NO RESPONSE  
 What action was taken? NONE

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate

I AM ON THE DIET FOR HEALTH FOR MEDICAL REASONS, THIS DIET IS PRESCRIBED BY UTMB-CMHC PROVIDOR, AND BY THE CHIEF DIETITIAN, ASHOK R. KURUKULLA. I AM UTILIZING THE FY 19 DFH MENU PROVIDED BY THE LAW LIBRARY, CMHC-THERAPEUTIC DIETARY POLICY & PROCEDURES MANUAL DATED SEPTEMBER 2018.

THE KITCHEN MANAGER/CAPTAIN'S OBSERVANCE OF POLICY IS SOLELY LACKING. WE KNOW THAT OBSERVANCE OF POLICY IS NOT ALWAYS CONVENIENT, BUT SHE OPERATES HOW KITCHEN TO HER CONVENIENCE. SHE SERVES/PREPARES MEALS THAT ARE NOT A PART OF THE CMHC-THERAPEUTIC DIETARY POLICY SET FORTH IN THE HEALTH SERVICES DEPARTMENT'S GUIDELINES. IT IS CONVENIENT FOR THE KITCHEN TO FEED "EVERYONE" THE SAME MEAL, THAN TO FOLLOW DFH POLICY.

THIS GRIEVANCE IS FILED OUT OF NEED FOR HEALTHIER SACK MEALS, BY HER NOT FOLLOWING POLICY, SHE IS INDIFFERENT TO MY HEALTH ISSUES, SHE IS KNOWINGLY, INTENTIONALLY, INDIFFERENT TO UTMB-CMHC PROVIDOR'S DIETARY SACKS, AS TO WHAT I AM TO BE FED, THUS OVER RIDING THE MEDICAL PROVIDOR DUE TO THE FACT THAT TO FOLLOW THE APPROVED DFH IS TO MUCH OF AN INCONVENIENCE, INSTEAD OF FOLLOWING DFH POLICY SHE FEEDS WHATEVER IS ON THE REGULAR LINE FOR THE GENERAL POPULATION. THIS UNIT IS DESIGNATED



AS A MEDICAL FACILITY, THAT INCLUDES THE DET.  
 THUS SHE IS VIOLATING THE 8TH AMENDMENT TO THE U.S.  
 CONSTITUTION, THE 14TH AMENDMENT TO THE U.S. CONSTITUTION  
 AS WELL AS VIOLATING THE RUIZ SETTLEMENT. THE GRIE  
 VANCE PROCEDURE IS NECESSARY TO PURSUE THIS MATTER IF  
 THIS MATTER CANNOT OR WILL NOT BE RESOLVED, MEANING  
 THAT THE KITCHEN FOLLOW THE CMHC DIETARY GUIDELINES.

JUN 04 2020

Action Requested to resolve your Complaint:

WOULD LIKE TO RECEIVING THE PROPER DENTIST WORKS DURING  
 A LOCKDOWN, AND DURING REGULAR DAILY CHW HALL WORKS.

Offender Signature: \_\_\_\_\_

Date: JUNE 2ND 2020

Grievance Response: \_\_\_\_\_

Signature Authority: \_\_\_\_\_

Date: \_\_\_\_\_

If you are dissatisfied with the Step 1 response, you may submit a Step 2 (I-128) to the Unit Grievance Investigator within 15 days from the date of the Step 1 response.  
 State the reason for appeal on the Step 2 Form.

Returned because: \*Resubmit this form when the corrections are made.

- ☐ 1. Grievable time period has expired.
- ☒ 2. Submission in excess of 1 every 7 days. \*
- ☐ 3. Originals not submitted. \*
- ☐ 4. Inappropriate/Excessive attachments. \*
- ☐ 5. No documented attempt at informal resolution. \*
- ☐ 6. No requested relief is stated. \*
- ☐ 7. Malicious use of vulgar, indecent, or physically threatening language. \*
- ☐ 8. The issue presented is not grievable.
- ☐ 9. Redundant, Refer to grievance # \_\_\_\_\_.
- ☐ 10. Illegible/Incomprehensible. \*
- ☐ 11. Inappropriate. \*

UGI Printed Name/Signature: \_\_\_\_\_

Application of the screening criteria for this grievance is not expected to adversely  
 affect the offender's health.

Medical Signature Authority: \_\_\_\_\_

Exhibit 1

I-127 Back (Revised 11-2010)

OFFICE USE ONLY	
Initial Submission	UGI Initials: YR
Date Recd: 2020/3/26/1	
Screening Criteria Used: 02/599	
Date Recd from Offender: JUN 04 2020	
Date Returned to Offender: JUN 04 2020	
2 <sup>nd</sup> Submission	UGI Initials: _____
Grievance #: _____	
Screening Criteria Used: _____	
Date Recd from Offender: _____	
Date Returned to Offender: _____	
3 <sup>rd</sup> Submission	UGI Initials: _____
Grievance #: _____	
Screening Criteria Used: _____	
Date Recd from Offender: _____	
Date Returned to Offender: _____	

028





## Texas Department of Criminal Justice

# STEP 1 OFFENDER GRIEVANCE FORM

## OFFICE USE ONLY

Grievance #: \_\_\_\_\_  
 Date Received: \_\_\_\_\_  
 Date Due: \_\_\_\_\_  
 Grievance Code: \_\_\_\_\_  
 Investigator ID #: \_\_\_\_\_  
 Extension Date: \_\_\_\_\_  
 Date Retd to Offender: \_\_\_\_\_

Offender Name: Roger Eugene Fain TDCJ # 00700474Unit: Mark W. Stiles Housing Assignment: 4D - 3 - 60BUnit where incident occurred: Stiles / Huntsville Administrative Block

You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? I was not afforded the opportunity to speak to When? anyoneWhat was their response? N/AWhat action was taken? N/A

MAR 12 2020

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate  
 On February 09 2020, I filed a legal Complaint Application on two Nurse Practitioners to the Texas Board of Nursing in Austin, Texas. These Complaint forms were provided to me by the Texas Board of Nursing to file the Complaints. MAR 12 2020

On March 11th 2020, I received a form letter from the TDCJ Health Services Division, Office of Professional Standards, Patient Liaison Program. I was informed by this unsigned form letter that the Patient Liaison Program no longer accepts complaints from the Offender population. The problem with this is I never sent any complaint to the Patient Liaison Program, due to the fact I'm aware that this alleged agency is an "Oxymoron" agency and has, even in its early stages never accepted complaints from the offender population. MAR 12 2020

My complaint is this, the Patient Liaison Program people have shortstopped my complaint, this is a legitimate complaint, the complaint was sent to me by the Texas Board of Nursing, a Anthony Diggs is the Director, this was on their Official Complaint Applications, and mailed back to Austin, TX. By the Patient Liaison Program acting as if I complained to them they have deliberately, knowingly with malious obstructed my claim to the appropriate agency over complaints of Texas Nurses.

The Patient Liaison Program group, by their actions is deliberately denying me access to the proper channels to make this claim, they are also protecting the Nurse Practitioner's that I filed the Complaints on, as well as protecting UTMB-CMHC. MAR 12 2020

Thus the Patient Liaison Program group has left me no choice other than to pursue this matter into the Federal Court with a USC 42 Section 1983 Lawsuit for violating my 8th Amendment Right, under the United States Constitution. Administrative, & Deliberate Medical Indifference Claim. This Step-1, I-127, is a requirement to proceed into the Federal Court, unless this matter can be properly resolved and my Complaints allowed to be processed by the Texas Board of Nursing as stated by the Complaints. MAR 12 2020



MAR 12 2020

MAR 12 2020

MAR 12 2020

Action Requested to resolve your Complaint.

I realize that this Grievance is outside and beyond the Units review but it is necessary to proceed into the Federal Court

Offender Signature: \_\_\_\_\_

Fogin Far 700474

MAR 12 2020

Date: March 11th 2020

Grievance Response: \_\_\_\_\_

Signature Authority: \_\_\_\_\_

Date: \_\_\_\_\_

If you are dissatisfied with the Step 1 response, you may submit a Step 2 (I-127) to the Unit Grievance Investigator within 15 days from the date of the Step 1 response. State the reason for appeal on the Step 2 Form.

Returned because: \*Resubmit this form when the corrections are made.

- ☐ 1. Grievable time period has expired
- ☐ 2. Submission in excess of 1 every 7 days \*
- ☐ 3. Originals not submitted \*
- ☐ 4. Inappropriate/Excessive attachments \*
- ☐ 5. No documented attempt at informal resolution \*
- ☐ 6. No requested relief is stated \*
- ☐ 7. Malicious use of vulgar, indecent, or physically threatening language \*
- ☒ 8. The issue presented is not grievable.
- ☐ 9. Redundant, Refer to grievance # \_\_\_\_\_
- ☐ 10. Illegible/Incomprehensible \*
- ☐ 11. Inappropriate \*

UGI Printed Name/Signature: \_\_\_\_\_

3/11/2020

Application of the screening criteria for this grievance is not expected to adversely affect the offender's health.

Medical Signature Authority: \_\_\_\_\_

Exhibit 1

I-127 Back (Revised 11-2010)

## OFFICE USE ONLY

Initial Submission: \_\_\_\_\_ UGI Initials: ST

Grievance #: 20-200-1076

Screening Criteria Used: 1.8 = 1.8/1.8

Date Recd from Offender: 12-12-20

Date Returned to Offender: 12-12-20

2<sup>nd</sup> Submission: \_\_\_\_\_ UGI Initials: \_\_\_\_\_

Grievance #: \_\_\_\_\_

Screening Criteria Used: \_\_\_\_\_

Date Recd from Offender: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

3<sup>rd</sup> Submission: \_\_\_\_\_ UGI Initials: \_\_\_\_\_

Grievance #: \_\_\_\_\_

Screening Criteria Used: \_\_\_\_\_

Date Recd from Offender: \_\_\_\_\_

Date Returned to Offender: 030



ACCEPT AS  
ORIGINAL

Texas Department of Criminal Justice  
**STEP 2**  
**OFFENDER**  
**GRIEVANCE FORM**

Offender Name: Roger Fain TDCJ # 00700474  
Unit: J.B. Connally Housing Assignment: 19 Y-087  
Unit where incident occurred: John B. Connally

**OFFICE USE ONLY**

Grievance #: 2021027245  
UGI Recd Date: 11-20-20  
HQ Recd Date: 11-20-20  
Date Due: 12-5-20  
Grievance Code: 930-508  
Investigator ID#: 2448  
Extension Date: NOV 20 2020

*You must attach the completed Step 1 Grievance that has been signed by the Warden for your Step 2 appeal to be accepted. You may not appeal to Step 2 with a Step 1 that has been returned unprocessed.*

Give reason for appeal (Be Specific). *I am dissatisfied with the response at Step 1 because...*

It fails to address the issues presented, basically the Warden's Response is a "Party Line"  
of TDCJ-CID concerning Policy Directive 03.83, Grooming Standards, to the point it violates  
TDCJ-CID's new, in place, COVID 19 Virus Guidelines, these Guidelines are in place to pro-  
tect the Offender population, and Employees.

TDCJ-CID Policy mandates that Offenders maintain 6' spacing in the dayroom area, 3 to a bench,  
2 to a table, no board games, wearing masks inside the cubicles, unless they are reclining on  
their bunks. Offenders are allowed 2 to a table, every other row in the chow hall, on the Rec  
yard Offenders are not allowed to use balls, weights, and have to wear masks and maintain 6'  
distancing. In the Law Libray 6' spacing at the tables, a controlled amount of Offenders in  
the General Library, at all times wearing masks.

Now the Administration says its ok to get a hair cut, that proper safety policies & procedures  
are in place, masks worn by barbers, face shields, golves, and aprons, equipment properly san-  
itized, but this is not the case on this Unit, and several Unit barbers have been allegedly  
warned. Furthermore, Offenders are still being denied religious meetings in the Chapel, due  
I believe because it is something for the Offender population that isn't related to any TDCJ-  
CID sponsorship, like no visitation with family members, outside volunteers coming to the Unit,  
or full classes for education, WSD, and College programs.

Also, nowhere in the Warden's Response was any addressing the fact that I am Native American,  
and my religion is Native American, the Culture, Customs, & Heritage, and it is apart of these  
things that I wish to grow my hair. I am not an isolated individual in this matter, TDCJ-CID  
has already allowed several others similarly situated to grow their hair, this concerns the

Goodman v. Davis lawsuit into the Southern District Court that was ruled on on January 24th 2019.  
I-128 Front (Revised 11-2010) YOUR SIGNATURE (SIGNATURE ON BACK OF THIS FORM) **031** (ER)



This matter is presently in Huntsville for consideration. See Grievance # 2021010196, 09/22/20.  
It is also in the Western District Court in San Antonio, Cause # 5:20-CV-01149.

All I am requesting is to be allowed that in which TDCJ-CID has already allowed on a limited  
basis, allowing me to grow my hair without harassment, hassles, or disciplinary action, TDCJ-  
has allowed beards, and that lawsuit wasn't a class action lawsuit, neither was Goodman v. Davi

Offender Signature: Kyle Tain #700474 Date: November 19th 2020

Grievance Response:

An investigation has been completed into your complaint. Chaplaincy was contacted regarding your request to grow long hair due to your religious beliefs. This request is now being processed; however, until the Religious Practices Committee makes a final decision, you are obligated to follow grooming standards according to existing policy. All precautionary measures are taken while in the barbershop to prevent the spread of COVID-19. No further action is warranted by this office.

Signature Authority: [Signature]

Date: DEC 04 2020

Returned because: \*Resubmit this form when corrections are made.

- ☒ 1. Grievable time period has expired.
- ☒ 2. Illegible/Incomprehensible.\*
- ☒ 3. Originals not submitted.\*
- ☒ 4. Inappropriate/Excessive attachments.\*
- ☒ 5. Malicious use of vulgar, indecent, or physically threatening language.
- ☒ 6. Inappropriate.\*

CGO Staff Signature: \_\_\_\_\_

#### OFFICE USE ONLY

Initial Submission CGO Initials: \_\_\_\_\_

Date UGI Recd: \_\_\_\_\_

Date CGO Recd: \_\_\_\_\_

(check one) ☐ Screened ☐ Improperly Submitted

Comments: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

2<sup>nd</sup> Submission CGO Initials: \_\_\_\_\_

Date UGI Recd: \_\_\_\_\_

Date CGO Recd: \_\_\_\_\_

(check one) ☐ Screened ☐ Improperly Submitted

Comments: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

3<sup>rd</sup> Submission CGO Initials: \_\_\_\_\_

Date UGI Recd: \_\_\_\_\_

Date CGO Recd: \_\_\_\_\_

(check one) ☐ Screened ☐ Improperly Submitted

Comments: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

Exhibit 1

032



ACCEPT AS  
ORIGINAL

## Texas Department of Criminal Justice

STEP 1 OFFENDER  
GRIEVANCE FORM

Offender Name: Roger Fain TDCJ# 0070047A  
 Unit: J.B. Connally Housing Assignment: 19 Y - 057  
 Unit where incident occurred: 19 Building Entry

## OFFICE USE ONLY

Grievance: 2021027245  
 Date Received: NOV 02 2020  
 Date Due: 11.17.2020  
 Grievance Code: 930-508  
 Investigator ID #: 11733  
 Extension Date: \_\_\_\_\_  
 Date Replied to Offender: NOV 18 2020

You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? Sgt. Julio Martinez When? 10/30/20

What was their response? Told me to get a haircut, and threatened disciplinary action

What action was taken? None

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate. Coming back from p.m. chow, Sgt. Martinez, who was working 19 Building told me that I was to get a haircut, he asked me where I lived, what cubicle, I told, then inquired about the rule being lifted for us to wear masks, he told me that I was still having to wear a mask, but I was going to get a haircut. I stated to Sgt. Martinez that 1) I was Native American and my religion didn't permit me to cut my hair, and that I was in the process in resolving this matter with Huntsville, the Unit & Regional Chaplaincy. He told me he didn't care what religion I was I was going to get my haircut. Then 2) I reminded Sgt. Martinez that TDCJ, the Unit, and in fact the entire Country was practicing social distancing, and for me to get a haircut I would have to remove my mask, in violation of TDCJ & the Unit's IOC's that are posted, and in fact Sgt. Martinez first thing this a.m., came onto the dorm and threatened to lock the dorm down for 23 hours if he caught anyone without a face mask on.

It is my belief that Sgt. Martinez will violate my Constitutional Rights, as well as violate posted TDCJ & Unit Directives by attempting to force me to cut my hair, and when I stand up and assert my rights to receive disciplinary action.

This matter is in Huntsville, Regional Chaplaincy Office, and in the Western District Federal Court in San Antonio. I have repeatedly attempted to resolve this matter informally, and what is going on is I'm being harrassed, hassled, and threatened with retaliatory disciplinary action because I am asserting my right to practice my religion, and secondly not wishing to remove my mask to get my hair cut due to the COVID 19 Virus. I am 66 years old, and have some health issues, and all Sgt. Martinez is concerned about is attempting to enforce rules that are not enforceable due to the COVID pandemic.



Copy to the United States District Court, Western District of Texas, 655 East Cesar E. Chavez Blvd., Suite G-65, San Antonio, Texas 78206

Action Requested to resolve your Complaint.

Would like to be left alone from being harassed concerning my hair length until such time the matter is resolved in Huntsville, State Classification, and the Federal Court.

Offender Signature: [Signature]

Date: 10/30/20 Mailed 5:48PM

Grievance Response:

Your complaint has been reviewed. All offenders are required to maintain and follow tdcj grooming standards according to policy. The unit barbers are taking all precautions necessary when conducting offender haircuts. No further action is warranted from this office.

Signature Authority: [Signature]

Senior Warden Rayford

Date: 11-12-20

If you are dissatisfied with the Step 1 response, you may submit a Step 2 (I-128) to the Unit Grievance Investigator within 15 days from the date of the Step 1 response. State the reason for appeal on the Step 2 Form.

Returned because: \*Resubmit this form when the corrections are made.

- ☐ 1. Grievable time period has expired
- ☐ 2. Submission in excess of 1 every 7 days \*
- ☐ 3. Originals not submitted \*
- ☐ 4. Inappropriate/Excessive attachments \*
- ☐ 5. No documented attempt at informal resolution \*
- ☐ 6. No requested relief is stated \*
- ☐ 7. Malicious use of vulgar, indecent, or physically threatening language \*
- ☐ 8. The issue presented is not grievable
- ☐ 9. Redundant. Refer to grievance # \_\_\_\_\_
- ☐ 10. Illegible/Incomprehensible \*
- ☐ 11. Inappropriate \*

UCI Printed Name/Signature: \_\_\_\_\_

Application of the screening criteria for this grievance is not expected to adversely affect the offender's health.

Medical Signature Authority: \_\_\_\_\_

I-127 Back (Revised 11-2010)

Exhibit 1

OFFICE USE ONLY	
Initial Submission	UCI Initials: _____
Grievance #	_____
Screening Criteria Used	_____
Date Read from Offender	_____
Date Returned to Offender	_____
2nd Submission	UCI Initials: _____
Grievance #	_____
Screening Criteria Used	_____
Date Read from Offender	_____
Date Returned to Offender	_____
3rd Submission	UCI Initials: _____
Grievance #	_____
Screening Criteria Used	_____
Date Read from Offender	_____
Date Returned to Offender	_____

034



# TEXAS DEPARTMENT OF CRIMINAL JUSTICE

## OFFENDER GRIEVANCE PROGRAM

### NOTICE

All documentation that follows this sheet is restricted and confidential and is not to be released without the authorization of the administrator of offender grievances.

# RESTRICTED AND CONFIDENTIAL



CSIUCR07/CSUC07  
GM00162 / 1BYF

TEXAS DEPARTMENT OF CRIMINAL JUSTICE  
UNIT CLASSIFICATION REVIEW (UCR)  
CURRENT INSTITUTIONAL ADJUSTMENT RECORDS

11/25/20  
11:35:11

OFFENDER NAME: FAIN, ROGER

TDCJ #: 00700474 SID #: 04497012

ACTIVE DETAINERS: 00 WARRANTS: 00 UNIT: CY

CMT: US

SEL CODE	ADJ DATE	ADJUSTMENT RECORD DETAILS
—	DRBRD 11-02-2020	PERMANENT DENIAL OF RELIGIOUS BEARD ON 11/02/2020
—	NADES 09-11-2020	REQUIRES DESIGNATED NATIVE AMERICAN UNIT
—	COVIX 08-13-2020	COVID-19 POST MEDICAL RESTRICTION
—	COVIX 06-03-2020	COVID-19 POST MEDICAL RESTRICTION
—	NADES 05-06-2020	REQUIRES DESIGNATED NATIVE AMERICAN UNIT
—	BWCHN 08-07-2019	BENCH WARRANT CASE HISTORY NOTIFICATION
—	BWCHN 02-13-2014	N/A
—	BWCHN 09-20-2013	BENCH WARRANT CASE HISTORY NOTIFICATION
—	EZ 02-16-2012	ESCAPE DESIGNATOR (OVER 10 YEARS AGO)
—	BWCHN 02-11-2011	N/A
—	NFSUA 02-05-2008	00708840 SMITH, DANNY RENE
—	NFSUA 12-11-2007	00708840 SMITH, DANNY RENE
—	NFSUA 07-11-1996	00727672 JEFFERSON, MELVIN RAY
—	DRUGS 04-13-1995	DRUG USE

ID STATUS: ACTIVE FOR TDCJ# 00700474

ENTER TRAN CODE	AND TDCJ#	OR SID#	PRINTER ID E MASK T
F1=HELP F4=ALIAS	F6=CODE LIST	F7=UP F9=PRINT	F10=DETAINERS F12=MENU
F3=PREV		F8=DOWN	F11=WARRANTS



CSIMF100 TEXAS DEPARTMENT OF CRIMINAL JUSTICE  
IMMH OFFENDER SOCIAL SECURITY NUMBER AND RELIGIOUS PREFERENCE INQUIRY  
DATE: 12/04/2020 TIME: 10:28:01

TDC NUMBER	00700474	NAME FAIN, ROGER
PRIOR NUMBER	00603982	UNIT CY ICE STATUS
SOC SEC NBR	[REDACTED]	ICE NATL
RELIG.PREF	NATIVE AMERICAN	PRIMARY LANGUAGE ENGLISH
RELIG. PREFERENCE DATE	01/16/2020 I	SID NUMBER 04497012
LEGAL C.O.R.	246 WILLIAMSON	TYC TRANSFER NO
POB COUNTY, IF TEXAS		PLACE OF BIRTH [REDACTED]
FBI NUMBER	[REDACTED]	CITIZENSHIP UNITED STATES

ENTER NEXT REQUEST / OR TDC NUM \_\_\_\_\_  
OR SID NUM \_\_\_\_\_  
OR SSN NUM \_\_\_\_\_



## GRIEVANCE INVESTIGATION WORKSHEET

Restricted &amp; Confidential

## GRIEVANCE OFFICE USE ONLY

STEP 1

STEP 2 X

Unit: CGO Investigator ID: I-2448 Date Initiated: 11/25/20 Date Completed: 11/25/20 Date Due: 12/05/20Inmate Name: FAIN, ROGER TDCJ No: 00700474 Grievance Number: 2021027245

Issue Code:	EMERGENCY	ADA	( )	Property	( )	Use of Force (UOF)	( )
	YES	Disciplinary	( )	Religion	( )	Harassment or Retaliation*	( )
930/508	NO	Medical	( )	OPI Investigation	( )	PREA	( )

\*Harassment or Retaliation of Use of the Grievance Procedure, Access to Courts, or other Legal Activity

Note: Inmates are not allowed to review the grievance investigation worksheet at any time. For claims of sexual abuse, sexual assault, criminal acts by staff, Excessive or Unreported UOF, the investigation must be conducted by the Office of Inspector General (OIG) and the OIG Fact Sheet completed.

## Summary of Issue: (Include date, time, and location):

Claims on 10/30/20 Sgt. Martinez told him he needed to get a haircut. He told the Sargeant that he is Native American, and his religion did not allow him to cut his hair and he was in the process of getting this resolved through the Unit Chaplaincy. He reminded the Sargeant that if he got his hair cut, he would need to remove his mask which would be a violation of TDCJ posted rules. Claims Sgt. Martinez stated he did not care about his religion and he needed to get a haircut. States he is being harassed, hassled, and threatened with retaliatory disciplinary action for practicing his religion.

## Requested Remedy:

Request to be left alone from being harassed concerning his hair length until such time the matter is resolved in Huntsville, State Classification, and Federal Court.

The following is to be completed and signed by the investigating Official. Attach statements/supporting documentation, if applicable.

## Summary of Fact-Finding Activity:

1. Reviewed Step 1 and Step 2.
2. Statement from Major Davis. The inmate is on the approved religious bread as of 11/2/20 and is approved to be on a Native American Unit as of 5/6/20. However, inmates are required to maintain a TDCJ haircut.
3. IOC from Chaplain Hall. On 10/01/20 the inmate submitted a HQ-150 request to grow long hair due to his religious beliefs. This request was forwarded to Huntsville and is now being processed. Until such time the Religious Practices Committee makes a final decision, the inmate is obligated to follow grooming standards according to existing policy.
4. UCR07. Inmate was permanently denial of religious beard as of 11/2/20.
5. Statement from Sgt. Martinez. I ordered the Inmate Fain to get a haircut. Inmate Fain stated he is in process of a permit with Huntsville, the barber shops on CY are open and taking all precaution when cutting hair on inmates.
6. No further action warranted.

## Suggested Response to Inmate:

An investigation has been completed into your complaint. Chaplaincy was contacted regarding your request to grow long hair due to your religious beliefs. This request is now being processed; however, until the Religious Practices Committee makes a final decision, you are obligated to follow grooming standards according to existing policy. All precautionary measures are taken while in the barbershop to prevent the spread of COVID-19. No further action is warranted by this office.

OUTCOME CODE: D RESOLUTION CODE: 2.02

Investigating official completes the section below:

Printed Name: M. GoebelSignature: M. GoebelTitle: Admin. Asst. IVDate: 11/25/20

This grievance is being processed in an effort to resolve a problem through the established procedures identified in BP-03.77 and AD-0382. It is expressly prohibited to subject the grievant, other inmates, or staff to any form of reprisal for the use of these procedures.

Exhibit 1

038





**Texas Department of Criminal Justice**  
**STEP 2** **OFFENDER**  
**GRIEVANCE FORM**

Offender Name: Roger Fain TDCJ # 00700474  
Unit: Mark W. Stiles Housing Assignment: 4Bldg. F - 2-40B  
Unit where incident occurred: Stiles

**OFFICE USE ONLY**

Grievance #: 2001121157  
UGI Recd Date: 01-13-20  
HQ Recd Date: 6-8-20  
Date Due: 6-23  
Grievance Code: 9715025  
Investigator ID#: 11264  
Extension Date: \_\_\_\_\_

*You must attach the completed Step 1 Grievance that has been signed by the Warden for your Step 2 appeal to be accepted. You may not appeal to Step 2 with a Step 1 that has been returned unprocessed.*

Give reason for appeal (Be Specific). I am dissatisfied with the response at Step 1 because...

Having filed my Step-1 in good faith, the Warden's Response does not address any of the raised issues, nor does he give me any indication that this alleged "Medical Lock Down" has any end in sight.

On May 15th 2020, me as well as others on my pod were tested enmasse, along with the rest of the Unit. After almost 2 weeks, the results came back and I along with many others were negative yet on May 29th 2020, in a kneejerk reaction, one person tested positive, and he was moved to a isolation pod, and 2 section was then locked down, and because of one positive test my section was punished. This Administration & Medical Department can say that they were only thinking of the welfare of the Offenders, their safety, yet this is only lip service that would go "Off Unit" when in fact the opposite is in fact the norm "on Unit." Officers, who are in fact the carriers of the COVID 19 virus due to the fact that they live "Outside" of the Unit don't practice what the Administration is preaching, most don't wear PPE, i.e. mask, gloves, sheilding clothing, this can be, and should be verified by the use of the camera system, but this will be ignored based on the reality that it is fact.

We are punished because the Administration & Medical can't deal with what is going on, where I and others are eating "sack meals" Officers & Employees are eating hot meals in ODR prepared by Offenders, the laundry is working so the Officers & Employees can get their clothing washed and pressed, the Unit states that we're on a "Medical Lock Down," when in fact we're not when other Offenders are allowed to work throughout the Unit, infected areas as well, and return to their living areas where other Offenders are housed, allowed out of cell for a very limited time, and thus come in contact with these "working" Offenders. Doesn't make any sense to keep pods locked



down when certain Offenders are allowed to go to work, assist the Officer's in their duties to feed the population, clean the Offender's living areas. I am asking that my Step-1 be reviewed, evaluated and acted upon. This "Medical Lock Down" referenced by the Warden's Response is a sham, it is being used to accommodate the convenience of the Unit not to serve hot meals, to lessen Offender traffic, and to deny us our privileges and Rights, Chapel, Law Library, etc.

Offender Signature: \_\_\_\_\_

Date: June 06 2020

Grievance Response: \_\_\_\_\_

Your Step 2 grievance has been investigated by this office. Records reflect you are post medical restriction. This should resolve your complaint. Be advised, Covid-19 protocols and guidelines are still in place. Unit Administration will continue to monitor the situation closely. Based on the information available at this time, no further action is warranted.

Signature Authority: \_\_\_\_\_

V. BARROW

JUN 13 2020

Date: \_\_\_\_\_

Returned because: \*Resubmit this form when corrections are made.

- ☐ 1. Grievable time period has expired.
- ☐ 2. Illegible/Incomprehensible.\*
- ☐ 3. Originals not submitted.\*
- ☐ 4. Inappropriate/Excessive attachments.\*
- ☐ 5. Malicious use of vulgar, indecent, or physically threatening language.
- ☐ 6. Inappropriate.\*

CGO Staff Signature: \_\_\_\_\_

**OFFICE USE ONLY****Initial Submission**

CGO Initials: \_\_\_\_\_

Date UGI Recd: \_\_\_\_\_

Date CGO Recd: \_\_\_\_\_

(check one) ☐ Screened ☐ Improperly Submitted

Comments: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

**2<sup>nd</sup> Submission**

CGO Initials: \_\_\_\_\_

Date UGI Recd: \_\_\_\_\_

Date CGO Recd: \_\_\_\_\_

(check one) ☐ Screened ☐ Improperly Submitted

Comments: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

**3<sup>rd</sup> Submission**

CGO Initials: \_\_\_\_\_

Date UGI Recd: \_\_\_\_\_

Date CGO Recd: \_\_\_\_\_

(check one) ☐ Screened ☐ Improperly Submitted

Comments: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

Exhibit 1

040

Appendix G





## Texas Department of Criminal Justice

# STEP 1 OFFENDER GRIEVANCE FORM

Offender Name: Roger Fain TDCJ # 00700474Unit: Mark W. Stiles Unit Housing Assignment: 4 F 2-2-40BUnit where incident occurred: Mark W. Stiles Unit

## OFFICE USE ONLY

Exempted from: \_\_\_\_\_

Date Received: JUN 02 2020

Date Due: \_\_\_\_\_

Charging Officer: \_\_\_\_\_

Investigator: \_\_\_\_\_

Extension Date: \_\_\_\_\_

Date Ret'd in File: JUN 05 2020

You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? Rovers for the building were asked for rank. When? May 29th 2020

What was their response? Rank I was told was unavailable for a informal resolution of this matter

What action was taken? None, the Rovers and/or Rank ignored my request for seeing Rank

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate

On May 15th 2020, 4F section was tested, in mass for the COVID 19 virus, the results were not made available until the week of May 26th 2020, on May 29th 2020, Offender in 39 cell of 2 section was packed up, and placed on 4F Pod quarantine, then 4F 2 Pod was then put on quarantine. The irony here is that on May 15th 39 cell was already "hot" with the COVID 19 virus, and 14 days later, on May 29th when they came and quarantined him, and subsequently 2 section, the 14 day isolation period had already expired. The virus had run it's course, 39 cell was not sick when he was placed on 4f 3 pod, and no one else on F 2 showed any symptoms of the virus, yet we are once again placed on a 14 day isolation quarantine for something that was detected on May 15th without anyone else being affected.

This Unit's Administration, as well as the Medical Department are totally clueless as to what they are doing. How can a section be locked down for quarantine 14 days after the fact as in this case?? The crisis that going on isn't the COVID 19 virus, but the fact that TDC cannot, and will not follow their own Policies, Procedures, Protocols that are in place for just this reason. The COVID 19 virus has a 14 day incubation period, and if symptoms are not shown within that period of time, then the person's chances of the contracting of the virus is nil. That being the case, the quarantining of F Pod 2 section is exercise in ignorance and if no one is showing any signs or symptoms of the virus we should be allowed to resume our daily routines and be allowed to function as in the past.

We are presently being treated as if the COVID 19 virus is in affect on F 2 Pod, when in fact no one is sick, is showing any signs of sickness, or has symptoms of the virus. We on F 2 Pod are being treated differently than other similar situated Offenders who live on the Stiles Unit who are in fact working, going throughout the Unit to any section they wish to visit, without any restrictions, these Offenders are not essential workers, but are used to ease the Officer's



loads, kitchen, laundry, SSI

Quarantine Policy & Protocol is, no Offender will be out and about until the COVID 19 virus has run it's course, this Policy & Protocol are not being followed.

Action Requested to resolve your complaint

The restrictive lockdown needs to be lifted, it needs to be properly, and safely dealt with, -an presently that isn't the case.

Offender Signature:

*[Signature]*

Date: June 1st 2020

Staff/Supervisor Response:

Your complaint has been reviewed. The Stiles unit is under medical lock down. The unit is following the guidelines set forth by the agency regarding COVID-19 procedures. All staff and offenders are receiving the necessary items to combat the spread of the coronavirus throughout the unit. Procedures are being implemented daily and privileges are being restored in stages within guidelines to combat the spread of the coronavirus. Remember to contact a building supervisor if there is an immediate need. No action is warranted.

Signature: Supervisor:

*[Signature]*

*[Signature]*

*[Signature]*

Date: 6-9-2020

Signature: Supervisor: *[Signature]* Date: 6-9-2020

Signature: Supervisor: *[Signature]* Date: 6-9-2020

Signature: Supervisor: *[Signature]* Date: 6-9-2020

Signature: Supervisor: *[Signature]* Date: 6-9-2020

Signature: Supervisor: *[Signature]* Date: 6-9-2020

Signature: Supervisor: *[Signature]* Date: 6-9-2020

Signature: Supervisor: *[Signature]* Date: 6-9-2020

Signature: Supervisor: *[Signature]* Date: 6-9-2020

Signature: Supervisor: *[Signature]* Date: 6-9-2020

Signature: Supervisor: *[Signature]* Date: 6-9-2020

Signature: Supervisor: *[Signature]* Date: 6-9-2020

Signature: Supervisor: *[Signature]* Date: 6-9-2020

Signature: Supervisor: *[Signature]* Date: 6-9-2020

Signature: Supervisor: *[Signature]* Date: 6-9-2020

Signature: Supervisor: *[Signature]* Date: 6-9-2020

Signature: Supervisor: *[Signature]* Date: 6-9-2020

Signature: Supervisor: *[Signature]* Date: 6-9-2020

Signature: Supervisor: *[Signature]* Date: 6-9-2020

Signature: Supervisor: *[Signature]* Date: 6-9-2020

Signature: Supervisor: *[Signature]* Date: 6-9-2020

# OFFICE USE ONLY

Initial Submission Date: \_\_\_\_\_  
 Review Date: \_\_\_\_\_  
 Reviewer: \_\_\_\_\_  
 Reviewer Title: \_\_\_\_\_  
 Reviewer Signature: \_\_\_\_\_  
 Reviewer Date: \_\_\_\_\_  
 2<sup>nd</sup> Submission UGI Initials: \_\_\_\_\_  
 Grievance #: \_\_\_\_\_  
 Screening Criteria Used: \_\_\_\_\_  
 Date Recd from Offender: \_\_\_\_\_  
 Date Returned to Offender: \_\_\_\_\_  
 3<sup>rd</sup> Submission UGI Initials: \_\_\_\_\_  
 Grievance #: \_\_\_\_\_  
 Screening Criteria Used: \_\_\_\_\_  
 Date Recd from Offender: \_\_\_\_\_  
 Date Returned to Offender: \_\_\_\_\_

UGI Printed Name/Signature: \_\_\_\_\_

Application of the screening criteria for this grievance is not expected to adversely affect the offender's health.

Medical Signature Authority: \_\_\_\_\_

Exhibit 1

Rec'd 06-



# **TEXAS DEPARTMENT OF CRIMINAL JUSTICE**

## **OFFENDER GRIEVANCE PROGRAM**

### **NOTICE**

All documentation that follows this sheet is restricted and confidential and is not to be released without the authorization of the administrator of offender grievances.

# **RESTRICTED AND CONFIDENTIAL**



## GRIEVANCE INVESTIGATION WORKSHEET

Restricted &amp; Confidential

<b>GRIEVANCE OFFICE USE ONLY</b>		<b>STEP 1 X</b>	
		<b>STEP 2</b>	
Unit: <u>ST</u> Investigator ID: <u>2534</u> Date Initiated: <u>06/02/20</u> Date Completed: <u>06/04/20</u> Date Due: <u>06/17/20</u>			
Offender Name: <u>Fain, Roger</u> TDCJ No: <u>700474</u> Grievance Number: <u>2020129759</u>			
Issue Code:  930/523	<b>EMERGENCY</b> YES ( ) NO (X)	<b>ADA</b> ( ) Disciplinary ( ) Medical ( )	<b>Property</b> ( ) Religion ( ) OPI Investigation ( )
			<b>Use of Force (UOF)</b> ( ) Harassment or Retaliation* ( ) PRE A ( )

\*This provision is a modification of 4.1 of the Grievance Procedure. It does not apply to claims of sexual abuse, sexual assault, criminal acts by staff, excessive or inappropriate use of force, or other legal claims.

*1. Offenders are not allowed to review the grievance investigation worksheet at any time. For claims of sexual abuse, sexual assault, criminal acts by staff, excessive or inappropriate use of force, or other legal claims, the investigation must be conducted by the Office of Inspector General (OIG) and the OIG Fact Sheet completed.*

**Summary of Issue:** *(Include date, time and location):*  
 Claims that 4bldg Fpod 2 section does not have any sick offenders and the 14 quarantine for coronavirus has expired. Claims that TDCJ is not following their own policy and protocols so restrictions should be lifted.

**Requested Remedy:**  
 The restrictive lockdown needs to be lifted it needs to be properly and safely dealt with and presently that isn't the case.

The following is to be completed and signed by the Investigating Official. Attach statements supporting documentation, if applicable.

**Summary of Fact Finding Activity:**

see IOC from Warden Smith

**Suggested Response to Offender:**

Our complaint has been reviewed. The Stiles unit is under medical lock down. The unit is following the guidelines set forth by the agency regarding COVID-19 procedures. All staff and offenders are receiving the necessary items to combat the spread of the coronavirus throughout the unit. Procedures are being implemented daily and privileges are being restored in stages within guidelines to combat the spread of the coronavirus. Remember to contact a building supervisor if there is an immediate need. No action is warranted.

**OUTCOME CODE:** D **RESOLUTION CODE:** 201

Investigating official completes the section below:

Printed Name: S THOMASSignature: Title: INV IIIDate: 06/04/20

This grievance is being processed in an effort to resolve a problem through the established procedures identified in BP 93.11 and AD-0382. It is expressly prohibited to subject the grievant, other offenders, or staff to any form of reprisal for the use of these procedures.



CSIUCR15/CSUC15 TDC UNIT CLASSIFICATION REVIEW CURRENT DATE: 06/11/20  
INMTCICS/LSA5473 HOUSING/JOB ASSIGNMENT HISTORY AND TIME: 10:12:59  
1A5H/UC15 INMATE NAME: FAIN, ROGER TDCNO: 00700474

HOUSING	DATE	UNIT	HOUSING COMMENT	INM/HSG	CUST	AUTH	JOB ASGN	DATE	JOB COMMENT	AUTH
	04/02/20	ST	4F22	40 B G2	GA	TC		08/30/19	UTILITY GEN SQ 1ST A SID	JW
	TC/RDO							JW/MLG		
	08/30/19	ST	4D32	60 B G2	GA	JW		08/28/19	TRANSIENT CUSTODY OVERFL	UCC
	JW/MLG							UCC/RDO		
	08/30/19	ST	UNASGN		G2	TR		08/21/19	UNASGN PENDING SCC DOCKE	PAS
	08/28/19	ST	11TRA	35 B G2	TR	UCC		08/12/19	TRANSIENT PEND DIAG PROC	RRW
	UCC/RDO							INTAKE		
	08/28/19	DU	UNASGN		G2	TR		08/07/19	TRANSIENT NON-ROUTINE	TR SB
	08/12/19	DU	C10	03 B G2	TR	RRW		12/04/18	I/S MED SQ 01	KS
	08/12/19	NE	UNASGN		G2	TR		05/30/18	I/S MED SQ 03	RS
	08/07/19	NE	GTR	17 B G2	TR	SB		11/18/14	QUALITY ASSURANCE TECH 1	GM
	03/19/19	ML	UNASGN		G2	G2		02/24/14	GARMENT INSPECTOR 1ST	OC

MORE HOUSING/JOBS AVAILABLE

NEXT TRANS CODE: 02 AND/OR TDCNO \_\_\_\_\_  
AND/OR SIDNO \_\_\_\_\_  
F1-HELP F3-MAIN MENU F7/F8-UP/DOWN F10-MAX UP F12-MENU



CSIUCR07/CSUC07  
LSA5473 / 1A5H

TEXAS DEPARTMENT OF CRIMINAL JUSTICE  
UNIT CLASSIFICATION REVIEW (UCR)  
CURRENT INSTITUTIONAL ADJUSTMENT RECORDS

06/11/20  
10:12:36

OFFENDER NAME: FAIN, ROGER

TDCJ #: 00700474 SID #: 04497012

ACTIVE DETAINERS: 00 WARRANTS: 00 UNIT: ST

CMT: US

SEL CODE	ADJ DATE	ADJUSTMENT RECORD DETAILS
COVIX	06-03-2020	COVID-19 POST MEDICAL RESTRICTION
NADES	05-06-2020	REQUIRES DESIGNATED NATIVE AMERICAN UNIT
BWCHN	08-07-2019	BENCH WARRANT CASE HISTORY NOTIFICATION
BWCHN	02-13-2014	N/A
BWCHN	09-20-2013	BENCH WARRANT CASE HISTORY NOTIFICATION
EZ	02-16-2012	ESCAPE DESIGNATOR (OVER 10 YEARS AGO)
BWCHN	02-11-2011	N/A
NFSUA	02-05-2008	00708840 SMITH, DANNY RENE
NFSUA	12-11-2007	00708840 SMITH, DANNY RENE
NFSUA	07-11-1996	00727672 JEFFERSON, MELVIN RAY
DRUGS	04-13-1995	DRUG USE

ID STATUS: ACTIVE FOR TDCJ# 00700474

ENTER TRAN CODE	AND TDCJ#	OR SID#	PRINTER ID 6759
F1=HELP F4=ALIAS	F6=CODE LIST	F7=UP F9=PRINT	F10=DETAINERS F12=MENU
F3=PREV		F8=DOWN	F11=WARRANTS

7 screen

X medic Restrict n. proximity P.S.  
Coul (D) Treated Patient



## GRIEVANCE INVESTIGATION WORKSHEET

Restricted &amp; Confidential

GRIEVANCE OFFICE USE  
ONLY

STEP 1

STEP 2 X

Unit: ST Investigator ID: I-1364 Date Initiated: 06/11/20 Date Completed: 06/11/20 Date Due: 06/23/20Offender Name: Fain, Roger TDCJ No: 700474 Grievance Number: 2020129759

Issue Code:	EMERGENCY	ADA	( )	Property	( )	Use of Force (UOF)	( )
<u>930523</u>	YES ( )	Disciplinary	( )	Religion	( )	Harassment or Retaliation*	( )
	NO (X)	Medical	( )	OPI Investigation	( )	PREA	( )

\*Harassment or Retaliation of Use of the Grievance Procedures, Access to Courts, or other Legal Activity

Note: Offenders are not allowed to review the grievance investigation worksheet at any time. For claims of sexual abuse, sexual assault, criminal acts by staff, Excessive or Unreported UOF, the investigation must be conducted by the Office of Inspector General (OIG) and the OIG Fact Sheet completed.

## Summary of Issue: (Include date, time and location):

The offender claims 4 building, F pod, 2 section does not have any sick offenders and the 14 day quarantine for coronavirus has expired. The offender claims that TDCJ is not following their own policy and protocols.

## Requested Remedy:

The offender wants the restrictive lockdown to be lifted.

The following is to be completed and signed by the Investigating Official. Attach statements/supporting documentation, if applicable.

## Summary of Fact Finding Activity:


1. Step 1
2. UCR 02 – Offender housed in 4 Building F Pod, 2 section.
3. UCR 07 – Covid 06/03/20, Covid 19 Post Medical Restriction – The offender was on medical restriction due to an offender in proximity testing positive. The 14 days is over and the offenders are off restriction- Per ST Unit CUC.
4. IOC ST per Warden K. Smith – Covid-19 protocols listed.

## Suggested Response to Offender:

Your Step 2 grievance has been investigated by this office. Records reflect you are post medical restriction. This should resolve your complaint. Be advised, Covid-19 protocols and guidelines are still in place. Unit Administration will continue to monitor the situation closely. Based on the information available at this time, no further action is warranted.

OUTCOME CODE: D RESOLUTION CODE: 2.01

Investigating official completes the section below:

Printed Name: L. SanfordSignature: Title: Administrative Assistant VDate: 06/11/20

This grievance is being processed in an effort to resolve a problem through the established procedures identified in BP-03.77 and AD-0382. It is expressly prohibited to subject the grievant, other offenders, or staff to any form of reprisal for the use of these procedures.





**Texas Department of Criminal Justice**  
**STEP 2**  
**OFFENDER**  
**GRIEVANCE FORM**

Offender Name: Roger Eain TDCJ # 00700474  
 Unit: Stiles Housing Assignment: 4F 2 - 40B  
 Unit where incident occurred: ~~XXXX~~ Stiles

OFFICE USE ONLY	
Grievance #:	<u>2020112559</u>
UGI Recd Date:	<u>06-24-20</u>
HQ Recd Date:	<u>JUN 27 2020</u>
Date Due:	<u>8-3</u>
Grievance Code:	<u>500</u>
Investigator ID#:	<u>27725</u>
Extension Date:	<u>9-12</u>

*You must attach the completed Step 1 Grievance that has been signed by the Warden for your Step 2 appeal to be accepted. You may not appeal to Step 2 with a Step 1 that has been returned unprocessed.*

Give reason for appeal (Be Specific). I am dissatisfied with the response at Step 1 because...

Once again the Warden's Response did not adequately answer the issues set forth in the Step-1 Grievance, in fact all the Response did was to rubber stamp the matter, validate what the Kitchen Manager/Captain was doing even though it was in violation of the Food Service Policy concerning DFH Sack Meals.

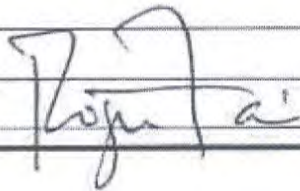
It is obvious that no Administrative investigation took place. The Grievance Investigators write out the Warden's Response, and the Warden signs off on the matter, thus denying whatever Administrative remedies I might be so entitled to.

It is hard for me to understand what the Unit's Grievance procedure has to lie on each and every Grievance when they deny an Offender a fair and impartial hearing of the Grievance filed. As stated in this Step-1 Response, "You are afforded a DFH meal daily in accordance with the food service policy." This is a blatant misstatement because the Kitchen does not follow the DFH as stated in the Food Service Policy, and this can be verified just by looking at what is being served in the lockdown johnnies, but again, no Administrative investigation was done, no other than the Grievance investigator calling up the kitchen, asking them if they are or aren't doing something, and that is the extent of the investigation. I guess the slogan on the back of the Agencies issued hats states it all, "We Take Care Of Our Own." Which means we take care of the Employees and the Offender population suffers for this policy of taking care of our own.

Once again I am stating that the kitchen is deliberately <sup>denying</sup> ~~deny~~ me my DFH because it is inconvenient to follow the Food Service Policy Meal, thus the kitchen Manager/Captain is indifferent to the Medical Department's order of a DFH, and for my health and well being.



Offender Signature:



Date:

June 23<sup>rd</sup> 2020

Grievance Response:

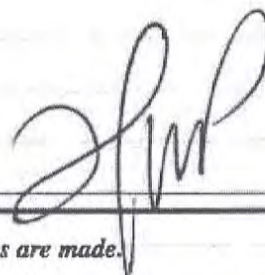
An investigation has been conducted into your complaint. There was no conclusive evidence found to substantiate your claims that food is not being served in accordance with policy. No further action warranted by this office.

Offender Signature:



Grievance Response:

Signature Authority:



Date:

OCT 02 2020

Returned because: \*Resubmit this form when corrections are made.

Offender Signature:

☒ 1. Grievable time period has expired.☐ 2. Illegible/Incomprehensible.\*☐ 3. Originals not submitted.\*☐ 4. Inappropriate/Excessive attachments.\*☐ 5. Malicious use of vulgar, indecent, or physically threatening language.☐ 6. Inappropriate.\*

Signature Authority:

Returned because: \*Resubmit this form when corrections are made.

CGO Staff Signature:

☒ 1. Grievable time period has expired.☐ 2. Illegible/Incomprehensible.☐ 3. Originals not submitted.\*☐ 4. Inappropriate/Excessive attachments.☐ 5. Malicious use of vulgar, indecent, or physically threatening language.☐ 6. Inappropriate.\*

I-128 Back (Revised 11-2010)

## OFFICE USE ONLY

Initial Submission

CGO Initials: \_\_\_\_\_

Date UGI Recd: \_\_\_\_\_

Date CGO Recd: \_\_\_\_\_

(check one) ☐ Screened ☐ Improperly Submitted

Comments: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

2<sup>nd</sup> Submission

CGO Initials: \_\_\_\_\_

Date UGI Recd: \_\_\_\_\_

Date CGO Recd: \_\_\_\_\_

(check one) ☐ Screened ☐ Improperly Submitted

Comments: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

3<sup>rd</sup> Submission

CGO Initials: \_\_\_\_\_

Date UGI Recd: \_\_\_\_\_

Date CGO Recd: \_\_\_\_\_

(check one) ☐ Screened ☐ Improperly Submitted

Comments: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

Exhibit 1

049

Appendix G





## Texas Department of Criminal Justice

# STEP 1

## OFFENDER GRIEVANCE FORM

Offender Name: Roger Fain TDCJ # 00700474  
 Unit: Mark W. Stiles Housing Assignment: 4F 2 - 40B  
 Unit where incident occurred: Stiles

OFFICE USE ONLY  
 Grievance #: 2020112559  
~~APR 29 2020~~ YR  
 Date Received: APR 29 2020  
 Date Due: 06-08-2020  
 Grievance Code: 500  
 Investigator ID #: I 27581781  
 Extension Date: 07-18-2020  
 Date Read to Offender: JUN 22 2020

You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? Food Services Captain / Manager I-60's When? Most recent 4.21.20

What was their response? Ignored, thus denied any attempt at a informal resolution

What action was taken? None

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate  
 On April 14th 2020, at approximately 8:00PM we were put on quarantine lock down.

On April 15th 2020, I received my first or several Diet For Health, (DFH) johnnie, this DFH sack meal was not what was prescribed by the Correctional Managed Health Care Therapeutic Dietary Policy & Procedures Manual.

My numerous I-60's to Food Service Manager/Captain concerned if the DFH Menu's, both for daily and lock downs, were the same as the FY 2018 - 2019 as stated in the Policy & Procedures Manual. I received no reply from any of my I-60's.

DFH aren't allow per Policy regular jelly, we are to receive Dietary jelly, with 2 tablespoons of peanut butter, this isn't happening. To date I've received out of a total of 42 served sack meals 33 peanut butter and jelly sandwiches; out of these 42 sack meals, 13 were not DFH.

CMHC Therapeutic Dietary Policy & Procedure states that I am to receive, daily; Mustard twice a day, haven't received it once; Powdered Milk, 8 oz. twice a day, I received it only 9 meals; I am to receive Raisins, or Prunes, 2 oz. 3 times per day, I have received 19 out of 42; I have received one odd meal that wasn't covered in the Dietary Policy, and that was on April 26th this is lunch, a hamburger patty on 2 pancakes, but I did receive a PB & J on bread at the same meal. Furthermore, the Policy & Procedure s Manual also states that I am to receive either Tea or punch to drink, haven't seen either to DFH or for others on the pod, I have noticed that the outside dorms enjoy Tea or Punch delivered to them.

I am not sure if it is the Food Service Captain/Manager who is at fault for the incomplete DFH sack meals or those of her workers not wanting to do their jobs, at least for them they are receiving hot meals for working in the kitchen.



**Action Requested to resolve your Complaint.**

Would like to see the DFH menu followed, and delivered as is posted in the CMHC Therapeutic Policy & Procedures Manual, if this isn't the Policy, I'd like to receive it to read what is

Offender Signature: Regan FairDate: April 28th 2020; PM drop off:

Grievance Response:

Your claims noted. Food service department is aware of your Diet for Health diet. You are afforded a DFH meal daily in accordance with the food service policy. No evidence was found to sustain your claims of being denied this daily meal. No further action is warranted by this office.

Signature Authority: K. SmithDate: 6-20-20

If you are dissatisfied with the Step 1 response, you may submit a Step 2 (I-128) to the Unit Grievance Investigator within 15 days from the date of the Step 1 response. State the reason for appeal on the Step 2 Form.

Returned because: \*Resubmit this form when the corrections are made.

- ☐ 1. Informal time period has expired
- ☐ 2. Submission in excess of 1 every 7 days \*
- ☐ 3. Originals not submitted \*
- ☐ 4. Inappropriate/Excessive attachments \*
- ☐ 5. No documented attempt at informal resolution. \*
- ☐ 6. No requested relief is stated. \*
- ☐ 7. Malicious use of vulgar, indecent, or physically threatening language \*
- ☐ 8. The issue presented is not grievable
- ☐ 9. Redundant. Refer to grievance # \_\_\_\_\_
- ☐ 10. Illegible/Incomprehensible. \*
- ☐ 11. Inappropriate. \*

UGI Printed Name/Signature: \_\_\_\_\_

Application of the screening criteria for this grievance is not expected to adversely affect the offender's health.

Medical Signature Authority: \_\_\_\_\_

Exhibit 1

I-127 Back (Revised 11-2010)

**OFFICE USE ONLY**

Initial Submission UGI Initials: \_\_\_\_\_

Grievance #: \_\_\_\_\_

Screening Criteria Used: \_\_\_\_\_

Date Recd from Offender: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

**2nd Submission** UGI Initials: \_\_\_\_\_

Grievance #: \_\_\_\_\_

Screening Criteria Used: \_\_\_\_\_

Date Recd from Offender: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

**3rd Submission** UGI Initials: \_\_\_\_\_

Grievance #: \_\_\_\_\_

Screening Criteria Used: \_\_\_\_\_

Date Recd from Offender: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

051

REC'D 06-22-20

Appendix F



**TEXAS  
DEPARTMENT OF CRIMINAL  
JUSTICE**

**OFFENDER GRIEVANCE PROGRAM**

**NOTICE**

All documentation that follows this sheet is restricted and confidential and is not to be released without the authorization of the administrator of offender grievances.

**RESTRICTED  
AND  
CONFIDENTIAL**



## GRIEVANCE INVESTIGATION WORKSHEET

Restricted &amp; Confidential

GRIEVANCE OFFICE USE  
ONLY

STEP 1 X

STEP 2

Unit: ST Investigator ID: 2758 1781 Date Initiated: 04/29/20 Date Completed: JUN 16 2020 Date Due: 05/08/20

Offender Name: Fain, Roger TDCJ No: 700474 Grievance Number: 2020112559

Issue Code:	EMERGENCY	ADA	( )	Property	( )	Use of Force (UOF)	( )
500	YES ( )	Disciplinary	( )	Religion	( )	Harassment or Retaliation*	( )
	NO (X)	Medical	( )	OPI Investigation	( )	PREA	( )

(Harassment or Retaliation is Part of the Grievance Procedure. Issues not covered by other legal forms)Offenders are not allowed to review the grievance investigation worksheet at any time. For claims of sexual abuse, sexual assault, sexual harassment, excessive or improper use of force, the investigation must be conducted by the Office of Inspector General (OIG) and the OIG Fact Sheet completed.

## Summary of Issue: (Include date, time and location):

Claims he has not received a proper diet for health meal during the lockdown and he has sent several I-80's to food service manager with his concerns Please explain

## Requested Remedy:

Would like to see DFH menu followed

The following is to be completed and signed by the Investigating Official. Attach statements/supporting documentation, if applicable.

## Summary of Fact Finding Activity:

FSM IV Gilder supervisor comments  
Extension Applied


## Suggested Response to Offender:

Your claims noted. Food service department is aware of your Diet for Health diet. You are afforded a DFH meal daily in accordance with the food service policy. No evidence was found to sustain your claims of being denied this daily meal. No further action is warranted by this office.

OUTCOME CODE: D RESOLUTION CODE: 2.01

Investigating official completes the section below:

Printed Name: Reynolds, Y.

Signature: 

Title: UGI II

Date: JUN 16 2020

This grievance is being processed in an effort to resolve a problem through the established procedures identified in BP-03 and 41-0382. It is expressly prohibited to subject the grievant, other offenders, or staff to any form of reprisal for the use of these procedures.

Exhibit 1

053



## GRIEVANCE INVESTIGATION WORKSHEET

## Official Statement

Unit: ST Staff Name: Food Service Grievance #: 2020112559 Date: 04/29/20  
 Offender Name: Fain, Roger TDCJ#: 700474 Housing Location: 4F-40B 06/08 YR

In accordance with BP 63.77, you are required to participate in this investigation as noted. Address each allegation thoroughly. Do not respond with indefinite answers such as "I don't know" or "I have no knowledge of". If you have no knowledge, explain the reason why (e.g., I was on vacation, I was not assigned there, etc.). Your answers are to be factual, professional, and complete. Do not include opinions or unrelated comments. Remember, the Executive Director, Office of the Inspector General (OIG), Attorney General's Office and State and Federal Court Officials may review your response. All grievances are confidential and may not be discussed between you and the offender or with other individuals. You are expected to return this investigation within 10 working days of receipt. Additional time may be requested by contacting the grievance investigator. Sign and date the form in the designated locations when completed and return it to the Unit Grievance Office. If you were provided a narrative copy of the grievance, it must also be returned to the Unit Grievance Office. The grievance may not be duplicated or shared with the accused staff member.

## Please Provide the Following Documents

- |  |   |
|--|---|
| <input type="checkbox"/> Participant(s) Statement                    | <input type="checkbox"/> Other                                      |
| <input type="checkbox"/> Witness(es) Statement (signed)              | <input type="checkbox"/> Staff or Offender Protection Investigation |
| <input type="checkbox"/> Activity Logs (Recreation, Shower, Feeding) | <input type="checkbox"/> Property Inventory Forms                   |
| <input type="checkbox"/> Shift Roster                                | <input type="checkbox"/> Property Logs                              |
| <input type="checkbox"/> Ingress/Egress Log                          |   |
| <input type="checkbox"/> Property Confiscation Form                  |   |

## ALLEGATIONS:

Claims he has not received a proper diet for health meal during the lockdown and he has sent several I-60's to food service manager with his concerns. Please explain.

## EMPLOYEE STATEMENT:

PRINTED NAME

SIGNATURE

DATE

RANK/TITLE

SHIFT/DEPARTMENT

SUPERVISOR COMMENTS:

Offender Fain # 700474 is listed on the DPH medical diet. He is served a DPH sack meal according to policy. The DPH sack meal is served according to 410 DPH menu.

PRINTED NAME

SIGNATURE

DATE

RANK/TITLE

SHIFT/DEPARTMENT

Exhibit 1

054



Step 1	<input checked="" type="checkbox"/>	Grievance #	Offender Name	TDCJ #	Unit
Step 2	<input type="checkbox"/>	2020112559	Fain, Roger	700474	ST



## Texas Department of Criminal Justice

### NOTICE OF EXTENSION

#### Offender Grievance Office

In accordance with the procedures outlined in BP-03.77, "Offender Grievances," and AD-03.82, "Management of Offender Grievances," you are hereby notified that additional time is necessary to complete the investigation of your:

#### Step 1 Grievance: (check the applicable box)

- ☐ An additional 30 days is needed for appropriate response to your disciplinary appeal.
- ☒ An additional 40 days is needed for appropriate response to your grievance.
- ☐ An additional 45 days is needed for appropriate response to your medical Step 1 grievance.

#### Step 2 Grievance: (check the applicable box)

- ☐ An additional 30 days is needed for appropriate response to your disciplinary appeal.
- ☐ An additional 40 days is needed for appropriate response to your Step 2 grievance.
- ☐ An additional 45 days is needed for appropriate response to your medical Step 2 grievance.

Y. Reynolds UGI II

Name and Title

06/01/2020

Date

Original - Send to the Offender

Copy - Attach to the Grievance



Step 1	<input type="checkbox"/>	Grievance #	Offender Name	TDCJ #	Unit
Step 2	<input checked="" type="checkbox"/>	2020112559	FAIN, ROGER	00700474	ST

(Check which box applies (Step 1 or Step 2))



Texas Department of Criminal Justice  
Offender Grievance Office

### NOTICE OF EXTENSION

In accordance with the procedures outlined in BP-03.77, "Offender Grievances," and AD-03.82, "Management of Offender Grievances," you are hereby notified that additional time is necessary to complete the investigation of your:

**Step 1 Grievance:** (check the applicable box)

- ☐ An additional 30 days is needed for appropriate response to your disciplinary appeal.
- ☐ An additional 40 days is needed for appropriate response to your grievance.

**Step 2 Grievance:** (check the applicable box)

- ☒ An additional 30 days is needed for appropriate response to your disciplinary appeal.
- ☐ An additional 40 days is needed for appropriate response to your Step 2 grievance.
- ☐ An additional 45 days is needed for appropriate response to your medical Step 2 grievance.

B. Ferguson

Name

8/4/2020

Date

Original – Send front page only to the Offender.  
Copy – Attach front and back to the Grievance.



## GRIEVANCE INVESTIGATION WORKSHEET

Restricted &amp; Confidential

<b>GRIEVANCE OFFICE USE ONLY</b>		<b>STEP 1</b> <b>STEP 2    X</b>		
Unit: <u>CGO</u> Investigator ID: <u>I-2725</u>		Date Initiated: <u>10/01/20</u> Date Completed: <u>10/01/20</u> Date Due: <u>09/12/20</u>		
Offender Name: <u>Fain, Roger</u>		TDCJ No: <u>00700474</u> Grievance Number: <u>2020112559</u>		
Issue Code:	<b>EMERGENCY</b> YES ( ) NO (X)	<b>ADA</b> ( ) <b>Disciplinary</b> ( ) <b>Medical</b> ( )	<b>Property</b> ( ) <b>Religion</b> ( ) <b>OPI Investigation</b> ( )	<b>Use of Force (UOF)</b> ( ) <b>Harassment or Retaliation*</b> ( ) <b>PREA</b> ( )
*Harassment or Retaliation of Use of the Grievance Procedure, Access to Courts, or other Legal Activity				
Note: Offenders are not allowed to review the grievance investigation worksheet at any time. For claims of sexual abuse, sexual assault, criminal acts by staff. Excessive or Unreported UOF, the investigation must be conducted by the Office of Inspector General (OIG) and the OIG Fact Sheet completed.				
<b>Summary of Issue: (Include date, time and location):</b> Offender claims on 4/15/20 he received a DFH johnnie; however, it was not what was prescribed by the Correctional Managed Health Care Therapeutic Dietary Policy and Procedures Manual. He states he is not being provided diet jelly and out of 42 sack meals, 13 have not been DFH.				
<b>Requested Remedy:</b> To have the DFH menu followed.				
The following is to be completed and signed by the Investigating Official. Attach statements/supporting documentation, if applicable.				
<b>Summary of Fact Finding Activity:</b>  1. Reviewed Step 1 and Step 2. 2. Reviewed statement from M. Gilder, FSM IV, which states, "Offender Fain is listed on the DFH medical diet. He is served a DFH sack meal according to policy. The DFH sack meal is served according to the DFH menu."				
<b>Suggested Response to Offender:</b> An investigation has been conducted into your complaint. There was no conclusive evidence found to substantiate your claims that food is not being served in accordance with policy. No further action warranted by this office.				
<b>OUTCOME CODE:</b> <u>D</u> <b>RESOLUTION CODE:</b> <u>2.01</u>				
Investigating official completes the section below:				
Printed Name: <u>H. Beltran</u>		Signature: <u>H. Beltran</u>		
Title: <u>Admin. Assistant IV</u>		Date: <u>10/01/20</u>		

This grievance is being processed in an effort to resolve a problem through the established procedures identified in BP-03.77 and AD-0382. It is expressly prohibited to subject the grievant, other offenders, or staff to any form of reprisal for the use of these procedures.





Texas Department of Criminal Justice  
**STEP 2**  
**OFFENDER**  
**GRIEVANCE FORM**

Offender Name: Roger Fain TDCJ # 00700474  
 Unit: Mark W. Stiles Housing Assignment: 4 B 2 - 403  
 Unit where incident occurred: 4 Building - Stiles Unit

## OFFICE USE ONLY

Grievance #: 2020090028  
 UGI Recd Date: 4-27-2020  
 HQ Recd Date: APR 29 2020  
 Date Due: 6-4  
 Grievance Code: 200  
 Investigator ID#: 1312  
 Extension Date: 7-16

*You must attach the completed Step 1 Grievance that has been signed by the Warden for your Step 2 appeal to be accepted. You may not appeal to Step 2 with a Step 1 that has been returned unprocessed.*

Give reason for appeal (Be Specific). I am dissatisfied with the response at Step 1 because...

The issues in the Grievance were not addressed, not due to the Senior Warden's response due to the fact that Senior Warden Williams did not have all of the facts necessary to make a proper evaluation, and respond to that evaluation. The fault lays with the Grievance Investigator.

If the Senior Warden had known what time of night, what the circumstances were for the 03/17/20 move, the Warden's Response would have been different. But since Senior Warden Williams only signs off on the Grievance without reading it, and making an independant assessment of the facts he is just rubber stamping what the Grievance Investigator/Coordinator is stating on the response portion of the Grievance.

If the facts had been available to the Senior Warden the outcome would be different and in my favor, not just merely stating that "...a housing change was provided on 03/17/20." As if in that response the matter was settled.

A second Grievance was filed on 03/17/20 another Grievance was filed with the Grievance Office, this Grievance stated that Offender Eddie Williams had become violent, which I stated was my concern on the 03/12/20 Grievance, which was ignored until I was attacked in the middle of the night by Eddie Williams. That he had heated my hot pot to the point of melting, and then when I attempted to unplug it, he took it, and started swinging it at me, burning me with the melted plastic, when I got him under control, called out to some on the run to get a guard, the guard came and I was questioned as to what happened, I stated that he had attacked me and destroyed my hot pot in the process.

My 03/17/20 Grievance stated these facts, and I asked for my hot pot to be replaced, and



I was called up to the Grievance Office, offered a replacement for my hot pot, and to sign a statement withdrawing the 03/17/20 Grievance. The fact of the matter is, my 03/12/20 Grievance which was marked "Emergency" several places was ignored, it was only responded to after I was attacked in the middle of the night by an Offender who has had a history of being moved due to problems with his cellies. This matter should have been handled differently, but was ignored, as usual.

Offender Signature:

Rogertain #00700479

Date: April 24th 2020

Grievance Response:

An investigation was conducted into your allegations. Your Step 1 response was appropriate. Be advised, if at any time you feel you are being subjected to a clear and present danger from another offender, it is imperative that you contact a TDCJ ranking officer for immediate assistance. No further action warranted.

Signature Authority:

me

M. LEWANDOWSKI

Date:

JUN 28 2020

Returned because: \*Resubmit this form when corrections are made.

- ☐ 1. Grievable time period has expired.
- ☐ 2. Illegible/Incomprehensible.\*
- ☐ 3. Originals not submitted.\*
- ☐ 4. Inappropriate/Excessive attachments.\*
- ☐ 5. Misleading use of vulgar, obscene, or physically threatening language.
- ☐ 6. Inappropriate.

CGO Staff Signature:

## OFFICE USE ONLY

Initial Submission

CGO Initials: \_\_\_\_\_

Date UGI Recd: \_\_\_\_\_

Date CGO Recd: \_\_\_\_\_

(check one) ☐ Screened ☐ Improperly Submitted

Comments: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

2nd Submission

CGO Initials: \_\_\_\_\_

Date UGI Recd: \_\_\_\_\_

Date CGO Recd: \_\_\_\_\_

(check one) ☐ Screened ☐ Improperly Submitted

Comments: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

3rd Submission

CGO Initials: \_\_\_\_\_

Date UGI Recd: \_\_\_\_\_

Date CGO Recd: \_\_\_\_\_

(check one) ☐ Screened ☐ Improperly Submitted

Comments: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

059

Exhibit 1





## Texas Department of Criminal Justice

# EMERGENCY STEP 1 OFFENDER GRIEVANCE FORM

## OFFICE USE ONLY

Grievance #: 2020090028Date Received: MAR 13 2020Date Due: 04-22-2020Grievance Code: 200Investigator ID #: I 2758

Extension Date: \_\_\_\_\_

Date Retd to Offender: APR 22 2020Offender Name: ROGER FAIN TDCJ # 200474Unit: STILES Housing Assignment: 4D 3-60BUnit where incident occurred: STILES 4 BUILDING

You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? BUILDING SGT.When? 9:45PM 03/12/20What was their response? TOLD ME TO CALM DOWN, WALKED AWAYWhat action was taken? NOTHING. SAID THEY WERE GOING TO MOVE HIM 10 RE

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate

EDDIE WILLIAMS WAS MOVED FROM 4D 3 56 TO 4D 3 60B, THE MOVE WAS THE RESULT OF THE OFFENDER IN 56B NOT BEING ABLE TO LIVE WITH HIM. WHY BECAUSE HE REFUSED TO BATH, PULLED TRASH FROM THE TRASH CAN, BROUGHT IT INTO THE CELL, AS WELL AS SPREADING IT AROUND THE DAY ROOM. FURTHERMORE EDDIE WILLIAMS EATS FOOD FROM THE TRASH CAN, FROM THE FOOD DAY ROOM FLOOR. HE IS A MENTAL CASE, TALKS TO HIMSELF, AT ALL HOURS OF THE DAY AND NIGHT, SINGS DANCES AND PICKS UP OTHERS PROPERTY. TAKES CUPS AND SPOONS FROM THE CATER HALL, PLACES THEM WITH TRASH AROUND THE ENTIRE POD.

EDDIE WILLIAMS IS A HEALTH PROBLEM TO HIMSELF AND TO THOSE AROUND HIM. THIS MAN SHOULD HAVE BEEN PLACED IN A MENT NARD, NOT IN GP. HIS MOVE FROM D 3 56 TO D 3 60B WAS BASED SOLELY ON THE FACT THAT I HAD A BUNK AVAILABLE, (THERE ARE SEVERAL OTHER BUNKS ALSO OPEN) AND HE IS BLACK AND I'M WHITE, WHITE WITHOUT ANY TYPE OF RACIAL RESTRICTIONS.

I DO NOT BELIEVE MYSELF SAFE LIVING IN THE SAME CELL AS EDDIE WILLIAMS. I BELIEVE HE COULD BECOME VIOLENT DURING THE NIGHTS AND ATTACK ME WITHOUT ANY SANE REASON.



I'VE GIVEN PROPER NOTICE TO THE ADMINISTRATION THAT A PROBLEM EXISTS, AND NEEDS TO BE DEALT WITH. FOR ANY FURTHER PROBLEMS ARISE, (SHOWEN WAS ALLOWED AT 2:00 PM HAD EDDIE WILLIAMS AGREEING TO A SHOWEN, GUARDS REFUSED TO OPEN THE CELL TO DO SO; OFFERED HIM CLEAN CLOTHES, BUT HE COULD SHOWEN; TOLD ME AT 10:15 PM, AFTER RETURNING FROM THE BUILDING THEY WERE GOING TO MOVE HIM TO 10 BUILDING, DIDN'T HAPPEN; OFFICERS ON THIS UNIT IGNORE OFFENDERS PROBLEMS BECAUSE THEY DON'T CARE, AND DON'T WANT TO RESOLVE THE ISSUE

Action Requested to resolve your Complaint:

THIS MATTER NEEDS IMMEDIATE ATTENTION BY THE ADMINISTRATION AND THIS OFFENDER ON ME MOVED. (DROPPED IN BOX AT ABOUT 4:00 AM)

Offender Signature:

*Dogear Fair* 200474

Date:

03/12/20 10:28 AM

Grievance Response:

An inquiry into your grievance was conducted and the investigation revealed that a housing change was provided on 03/17/2020. No further action warranted.

**Bryan Williams**  
Warden

Signature Authority:

*B. Williams* Date: 4-24-2020

If you are dissatisfied with the Step 1 response, you may submit a Step 2 (I-127) to the Unit Grievance Investigator within 15 days from the date of the Step 1 response. State the reason for appeal on the Step 2 Form.

Returned because: \*Resubmit this form when the corrections are made.

- ☐ 1. Grievable time period has expired.
- ☐ 2. Submission in excess of 1 every 7 days. \*
- ☐ 3. Originals not submitted. \*
- ☐ 4. Inappropriate/Excessive attachments.
- ☐ 5. No documented attempt at informal resolution. \*
- ☐ 6. No requested relief is stated. \*
- ☐ 7. Malicious use of vulgar, indecent, or physically threatening language. \*
- ☐ 8. The issue presented is not grievable.
- ☐ 9. Redundant. Refer to grievance # \_\_\_\_\_
- ☐ 10. Illegible-Incomprehensible. \*
- ☐ 11. Inappropriate. \*

UGI Printed Name/Signature: \_\_\_\_\_

Application of the screening criteria for this grievance is not expected to adversely affect the offender's health.

Medical Signature Authority: \_\_\_\_\_

I-127 Back (Revised 11-2010)

Exhibit 1

#### OFFICE USE ONLY

Initial Submission UGI Initials: \_\_\_\_\_

Grievance #: \_\_\_\_\_

Screening Criteria Used: \_\_\_\_\_

Date Recd from Offender: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

2<sup>nd</sup> Submission UGI Initials: \_\_\_\_\_

Grievance #: \_\_\_\_\_

Screening Criteria Used: \_\_\_\_\_

Date Recd from Offender: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

3<sup>rd</sup> Submission UGI Initials: \_\_\_\_\_

Grievance #: \_\_\_\_\_

Screening Criteria Used: \_\_\_\_\_

Date Recd from Offender: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

REC'D 04-22-20

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Appendix F



# **TEXAS DEPARTMENT OF CRIMINAL JUSTICE**

## **OFFENDER GRIEVANCE PROGRAM**

### **NOTICE**

All documentation that follows this sheet is restricted and confidential and is not to be released without the authorization of the administrator of offender grievances.

# **RESTRICTED AND CONFIDENTIAL**



Step 1	<input type="checkbox"/>	Grievance #	Offender Name	TDCJ #	Unit
Step 2	<input checked="" type="checkbox"/>	2020090028	FAIN, ROGER	700474	ST

(Check which box applies (Step 1 or Step 2))



Texas Department of Criminal Justice  
Offender Grievance Office

### NOTICE OF EXTENSION

In accordance with the procedures outlined in BP-03.77, "Offender Grievances," and AD-03.82, "Management of Offender Grievances," you are hereby notified that additional time is necessary to complete the investigation of your:

**Step 1 Grievance:** (check the applicable box)

- ☐ An additional 30 days is needed for appropriate response to your disciplinary appeal.
- ☐ An additional 40 days is needed for appropriate response to your grievance.

**Step 2 Grievance:** (check the applicable box)

- ☐ An additional 30 days is needed for appropriate response to your disciplinary appeal.
- ☒ An additional 40 days is needed for appropriate response to your Step 2 grievance.
- ☐ An additional 45 days is needed for appropriate response to your medical Step 2 grievance.

V. Barrow  
Name

05/01/20  
Date

Original – Send front page only to the Offender.  
Copy – Attach front and back to the Grievance.



CSIUCR15/CSUC15 TDC UNIT CLASSIFICATION REVIEW  
 INMTCICS/JWA5446 HOUSING/JOB ASSIGNMENT HISTORY  
 1FSD/UC15 INMATE NAME: FAIN, ROGER

CURRENT DATE: 06/26/20  
 AND TIME: 10:58:03  
 TDCNO: 00700474

HOUSING DATE	UNIT	--HOUSING-- --ASGNMNT--	INM/HSG CUST	AUTH	JOB ASGN DATE	-----JOB----- -----ASSIGNMENT-----	AUTH
04/02/20	ST	4F22	40 B G2	GA TC	08/30/19	UTILITY GEN SQ 1ST A SID	JW
TC/RDO					JW/MLG		
08/30/19	ST	4D32	60 B G2	GA JW	08/28/19	TRANSIENT CUSTODY OVERFL	UCC
JW/MLG					UCC/RDO		
08/30/19	ST	UNASGN	G2	TR	08/21/19	UNASGN PENDING SCC DOCKE	PAS
08/28/19	ST	11TRA	35 B G2	TR UCC	08/12/19	TRANSIENT PEND DIAG PROC	RRW
UCC/RDO					INTAKE		
08/28/19	DU	UNASGN	G2	TR	08/07/19	TRANSIENT NON-ROUTINE TR	SB
08/12/19	DU	C10	03 B G2	TR RRW	12/04/18	I/S MED SQ 01	KS
08/12/19	NE	UNASGN	G2	TR	05/30/18	I/S MED SQ 03	RS
08/07/19	NE	GTR	17 B G2	TR SB	11/18/14	QUALITY ASSURANCE TECH 1	GM
03/19/19	ML	UNASGN	G2	G2	02/24/14	GARMENT INSPECTOR 1ST	OC

MORE HOUSING/JOBS AVAILABLE

NEXT TRANS CODE: 02 AND/OR TDCNO \_\_\_\_\_ AND/OR OPTION I  
 AND/OR SIDNO \_\_\_\_\_

F1-HELP F3-MAIN MENU F7/F8-UP/DOWN F10-MAX UP F12-MENU



## GRIEVANCE INVESTIGATION WORKSHEET

Restricted &amp; Confidential

GRIEVANCE OFFICE USE ONLY		STEP 1	
		STEP 2 X	
Unit: <u>CGO</u>	Investigator ID: <u>I1312</u>	Date Initiated: <u>6/26/20</u>	Date Completed: <u>6/26/20</u> Due: <u>7/16/20</u>
Offender Name: <u>Fain, Roger</u>		TDCJ No: <u>700474</u>	Grievance Number: <u>2020090028</u>
Issue Code:  200	EMERGENCY YES ( ) NO ( )	ADA ( ) Disciplinary ( ) Medical ( )	Property ( ) Religion ( ) OPI Investigation ( ) Use of Force (UOF) ( ) Harassment or Retaliation* ( ) PREA ( )
<i>*Harassment or Retaliation of Use of the Grievance Procedure, Access to Courts, or other Legal Activity</i>			
<p><i>Note: Offenders are not allowed to review the grievance investigation worksheet at any time. For claims of sexual abuse, sexual assault, criminal acts by staff, Excessive or Unreported UOF, the investigation must be conducted by the Office of Inspector General (OIG) and the OIG Fact Sheet completed.</i></p> <p>Summary of Issue: (Include date, time and location): _____</p> <p>Offender states that a housing move should not have been necessary. The offender is mental and a harm to himself and others.</p>			
<p>Requested Remedy: Offender states that he should not have had to deal with the violence.</p>			
<p>The following is to be completed and signed by the Investigating Official. Attach statements/supporting documentation, if applicable.</p> <p>Summary of Fact Finding Activity:</p> <ol style="list-style-type: none"> <li>1. Step 1 and 2 reviewed.</li> <li>2. No OPI on GR00 or UCR</li> <li>3. Offender Williams 499077 was moved to 7 building on 3/17/20, offender is G2 and records do not note mental health.</li> </ol>			
<p>Suggested Response to Offender:</p> <p>An investigation was conducted into your allegations. Your Step 1 response was appropriate. Be advised, if at any time you feel you are being subjected to a clear and present danger from another offender, it is imperative that you contact a TDCJ ranking officer for immediate assistance. No further action warranted.</p>			
OUTCOME CODE: <u>D</u>		RESOLUTION CODE: <u>2.01</u>	
Investigating official completes the section below:			
Printed Name: <u>J. Warren</u>		Signature: <u>Julie Warren</u>	
Title: <u>CGO Investigator</u>		Date: <u>6/26/20</u>	

This grievance is being processed in an effort to resolve a problem through the established procedures identified in BP-03.77 and AD-0382. It is expressly prohibited to subject the grievant, other offenders, or staff to any form of reprisal for the use of these procedures.





**Texas Department of Criminal Justice**  
**STEP 2** **OFFENDER**  
**GRIEVANCE FORM**

Offender Name: Roger Fain TDCJ # 00700474  
 Unit: Mark W. Stiles Housing Assignment: 4F 22 - 40B  
 Unit where incident occurred: Mark W. Stiles

**OFFICE USE ONLY**

Grievance #: 2020086915  
 UGI Recd Date: 8-24-2020  
 HQ Recd Date: AUG 26 2020  
 Date Due: 10-3  
 Grievance Code: 523  
 Investigator ID#: 12704  
 Extension Date: 11/12

*You must attach the completed Step 1 Grievance that has been signed by the Warden for your Step 2 appeal to be accepted. You may not appeal to Step 2 with a Step 1 that has been returned unprocessed.*

Give reason for appeal (Be Specific). I am dissatisfied with the response at Step 1 because...

The issues presented in my Step-I, Grievance #2020086915 were not addressed, the gist of the grievance was the fact that when something happened on another section of the building, on another pod, that had absolutely nothing to do with any other section or pod, the Administration decided to punish the entire building because of the actions of two other offenders who were subsequently removed from the section/pod/building and put into 11 building, in that, the issue should have been resolved. Instead, approximately 430 offenders were denied hot meals, lay-ins, and other services that were going on that day.

Warden Smith's reply did not answer the grievance as much as it gave lip service to a party line of the Unit and possibly of the Agency, that the safety & integrity of the Staff & Offenders was at the heart of the matter.

Furthermore, Grievance #2020086915 was written on March 4th 2020, dropped into the Grievance box on March 5th 2020. In the upper right hand section of the Grievance, under "Office Use Only" it shows where the Grievance was received on March 6th 2020, Grievance Code 523, Investigator I 2758 first received it, then I 2133 dealt with it, (Assuming that 2758 is S. Thomas, and 2133 is Y. Reynolds, either/or). Extension Date May 25th 2020, (A notice for an extension was issued and sent to me on April 10th 2020, by Ms. Yolanda S. Reynolds, UGI-II, I received the extension on April 13th 2020, this extension was for 40 Days), Date Returned To Offender August 19th 2020.

From the time of the filing, the actual receipt of the grievance in the Grievance Office, to the Date that Warden Kevin Smith signed off on it. August 18th 2020 amounts to 165 days for the Grievance Investigators/Grievance Office to answer this particular Grievance, and the amount of



violates TDCJ-CID Policy, Rules & Procedures that govern the Grievance process. The Grievance office could have asked for a second additional extension, it didn't because their process of dealing with Offender Grievances is contempt, indifference, and a "Don't Care Attitude" and this is apparent throughout the entire Grievance Office & Processing of Offender Grievances. This matter should be investigated, and the Grievance Process Audited.

Offender Signature: \_\_\_\_\_

Date: August 21st 2020

Grievance Response: \_\_\_\_\_

An investigation has been conducted into your complaint. Records indicate that there is no record of an incident in 4 building on said date. No further action warranted.

Offender Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Grievance Response: \_\_\_\_\_

Signature Authority: \_\_\_\_\_

V. BARROW

Date: \_\_\_\_\_

NOV 13 2020

Returned because: \*Resubmit this form when corrections are made.

- ☐ 1. Grievable time period has expired.
- ☐ 2. Illegible/Incomprehensible.\*
- ☐ 3. Originals not submitted.\*
- ☐ 4. Inappropriate/Excessive attachments.\*
- ☐ 5. Malicious use of vulgar, indecent, or physically threatening language.
- ☐ 6. Inappropriate.\*

Signature Authority: \_\_\_\_\_

CGO Staff Signature: \_\_\_\_\_

Signature Authority: \_\_\_\_\_

- ☐ 1. Grievable time period has expired.

- ☐ 2. Illegible/Incomprehensible.\*

- ☐ 3. Originals not submitted.\*

- ☐ 4. Inappropriate/Excessive attachments.\*

- ☐ 5. Malicious use of vulgar, indecent, or physically threatening language.

- ☐ 6. Inappropriate.\*

I-128 Back (Revised 11-2010)

## OFFICE USE ONLY

Initial Submission

CGO Initials: \_\_\_\_\_

Date UGI Recd: \_\_\_\_\_

Date CGO Recd: \_\_\_\_\_

(check one) ☐ Screened ☐ Improperly Submitted

Comments: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

2<sup>nd</sup> Submission

CGO Initials: \_\_\_\_\_

Date UGI Recd: \_\_\_\_\_

Date CGO Recd: \_\_\_\_\_

(check one) ☐ Screened ☐ Improperly Submitted

Comments: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

3<sup>rd</sup> Submission

CGO Initials: \_\_\_\_\_

Date UGI Recd: \_\_\_\_\_

Date CGO Recd: \_\_\_\_\_

(check one) ☐ Screened ☐ Improperly Submitted

Comments: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

Exhibit 1

067

Appendix G





## Texas Department of Criminal Justice

## STEP 1

OFFENDER  
GRIEVANCE FORM

4F-40

Offender Name: Roger Fain

TDCJ # 00700474

Unit: Mark W. Stiles

Housing Assignment: 4D-03-60B

Unit where incident occurred: 4 Building, Stiles Unit

## OFFICE USE ONLY

Grievance #: 2020086915

Date Received: MAR 06 2020

Date Due: 04-15-2020

Grievance Code: 523

Investigator ID #: I2758 I2133

Extension Date: 05-25-2020

Date Retd to Offender: AUG 19 2020

You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? Asked for Rank, was told they were unavailable When? 03/04/20

What was their response? There was none, floor rover stated "She didn't have a clue as to why...?"

What action was taken? Racked up in our cells from 12:45PM until 8:00am day room

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate. On March 4th 2020, at approximately 12:45pm the rover on D Section of 4 Building came in and told us to rack up, when asked what for, she stated that she didn't have a clue, that she was informed to rack up her section. When asked to speak to rank, she informed us that rank was not available so we were racked up. Lays were not honored, and at pm chow we received 2 chicken pattys on dry bread.

I understand that being racked up is for a disciplinary and/or security reason, but yesterday's racking up of the entire 4 Building, and no other buildings or dorms were affected did not constitute a rack up for disciplinary and/or security reasons, in fact no reason was ever given for racking up the entire building.

Rumor had it that on 4 Building F 2 Section someone gone into a fight/stabbing, which in that case, that section alone should have been racked up, yet this Administration decide to punish not just the section but the entire building. When in fact at the time of the rack up, neither of the individuals in the fight/stabbing were even present to be locked down with the entire section and building.

It would seem that this Administration is promoting violation towards others by punishing everyone for the actions of a few, thus if we're to be punished for the actions of others, then it would make sense to punish those responsible for the upcoming punishment "prior" to their leaving the section. By extracting the punishment on those responsible for causing the punishment for the entire section to be locked down, fed johnnies, and treated as if they were the problem this extrating the punishment might, in the future prevent others from acting out in fear of what might befall them from others around them, in other words, offenders that offend and break the rules, peace, and quiet of those around them, those around them then discipline the offender for causing them problems. Prison is not a safe enviroment, never will be, no matter what Safe Prisor



Case 5:20-cv-01149-DAF Document 94-2 Filed 03/31/22 Page 70 of 206

and PREA wish to protect to the outside world by punishing everyone for the actions of a few is wrong, but TDCJ-CID's policy is to punish those that do what is correct, and do their time, and reward, and promote those that are the problems. It is easier to blame everyone, instead of taking actions against those that deserve it.

DROPPED IN GRIEVANCE  
Box 03/05/20 12:00PM

Action Requested to resolve your Complaint.  
To have the process of racking up an entire building due to an isolated incident investigated and re-evaluated, and only punish those that deserve it, instead of punishing everyone.

Offender Signature: Rogers 700474 Date: March 5th 2020  
Grievance Response:

Your grievance has been reviewed and investigated. To preserve the integrity of the investigation and safety of staff and offenders the building was racked up. Based on available facts, no further action warranted.

*Kevin Fink*

Signature Authority: [Signature] Date: 8-18-20  
If you are dissatisfied with the Step 1 response, you may submit a Step 2 (1-138) to the Unit Grievance Investigator within 15 days from the date of the Step 1 response. State the reason for appeal on the Step 2 Form.

Returned because: \*Resubmit this form when the corrections are made.

- ☐ 1. Grievable time period has expired.
- ☐ 2. Submission in excess of 1 every 7 days. \*
- ☐ 3. Originals not submitted \*
- ☐ 4. Inappropriate Excessive attachments \*
- ☐ 5. No documented attempt at informal resolution. \*
- ☐ 6. No requested relief is stated \*
- ☐ 7. Malicious use of vulgar, indecent, or physically threatening language \*
- ☐ 8. The issue presented is not grievable
- ☐ 9. Redundant, Refer to grievance # \_\_\_\_\_
- ☐ 10. Illegible/Incomprehensible \*
- ☐ 11. Inappropriate \*

UGI Printed Name/Signature: \_\_\_\_\_

Application of the screening criteria for this grievance is not expected to adversely affect the offender's health.

Medical Signature Authority: \_\_\_\_\_

OFFICE USE ONLY	
Initial Submission	UGI Initials: _____
Grievance #:	_____
Screening Criteria Used:	_____
Date Recd from Offender:	_____
Date Returned to Offender:	_____
2 <sup>nd</sup> Submission	UGI Initials: _____
Grievance #:	_____
Screening Criteria Used:	_____
Date Recd from Offender:	_____
Date Returned to Offender:	_____
3 <sup>rd</sup> Submission	UGI Initials: _____
Grievance #:	_____
Screening Criteria Used:	_____
Date Recd from Offender:	_____
Date Returned to Offender:	_____



**TEXAS  
DEPARTMENT OF CRIMINAL  
JUSTICE**

**OFFENDER GRIEVANCE PROGRAM**

**NOTICE**

All documentation that follows this sheet is restricted and confidential and is not to be released without the authorization of the administrator of offender grievances.

**RESTRICTED  
AND  
CONFIDENTIAL**



## GRIEVANCE INVESTIGATION WORKSHEET

Restricted &amp; Confidential

<b>GRIEVANCE OFFICE USE ONLY</b>		<b>STEP 1 X</b>	
		<b>STEP 2</b>	
Unit: <u>ST</u>	Investigator ID: <u>2133</u>	Date Initiated: <u>03/06/20</u>	Date Completed: <u>08/14/20</u> Date Due: <u>05/25/20</u>
Offender Name: <u>Fain, Roger</u> ✓		TDCJ No: <u>700474</u>	Grievance Number: <u>2020086915</u>
Issue Code: <u>523</u>	<b>EMERGENCY</b> YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	<b>ADA</b> <input type="checkbox"/> <b>Disciplinary</b> <input type="checkbox"/> <b>Medical</b> <input type="checkbox"/>	<b>Property</b> <input type="checkbox"/> <b>Religion</b> <input type="checkbox"/> <b>OPI Investigation</b> <input type="checkbox"/>
			<b>Use of Force (UOF)</b> <input type="checkbox"/> <b>Harassment or Retaliation*</b> <input type="checkbox"/> <b>PREA</b> <input type="checkbox"/>

\*Harassment or Retaliation is based on the Grievance Procedures process to determine if the offender is being retaliated against.

Note: Offenders are not allowed to review the grievance investigation worksheet at any time. For claims of sexual abuse, sexual assault, criminal acts by staff, excessive or inappropriate UOF, the investigation must be conducted in the Office of Inspector General (OIG) and the OPI Fact Sheet completed.

**Summary of Issue: (Include date, time and location):**

Offender alleges on 03/04/2020 that 4 building was racked up for no reason other than an incident (stabbing) in another pod. Claims no reason to rack up the entire building. Claims everyone is being punished for the actions of a few. Claim they were fed johnnies and treated like they were the problem.

**Requested Remedy:**

To have the process of racking up an entire building due to an isolated incident investigated and re-evaluated and only punish those that deserve it, instead of punishing everyone.

The following is to be completed and signed by the Investigating Official. Attach statements/supporting documentation, if applicable.

## Summary of Fact Finding Activity:

OGOM-M

email requesting statement x2

Major Neal had no knowledge of this incident at the time I was assigned to Restrictive Housing

## Suggested Response to Offender:

Your grievance has been reviewed and investigated. To preserve the integrity of the investigation and safety of staff and offenders the building was racked up. Based on available facts, no further action warranted.

OUTCOME CODE: D RESOLUTION CODE: 2.01

Investigating official completes the section below:

Printed Name: J. LombardoSignature: [Signature]Title: AA IVDate: 08/14/20

This grievance is being processed in an effort to resolve a problem through the established procedures identified in BP 03.00 and AD-0362. It is expressly prohibited to subject the grievant, other offenders, or staff to any form of reprisal for the use of these procedures.



## GRIEVANCE INVESTIGATION WORKSHEET

OVERDUE since 05/25/2020

5/25

Unit: TL Staff Name: Major Neal Grievance #: 2020086915 Date: 08/01/2020  
 Offender Name: Fain, Roger TDCJ#: 700474 Housing Location: 4 D 3

In accordance with BP 03.77, you are required to participate in this investigation as noted. Address each allegation thoroughly. Do not respond with indefinite answers such as "I don't know" or "I have no knowledge of". If you have no knowledge, explain the reason why. (e.g., I was on vacation, I was not assigned there, etc.) Your answers are to be factual, professional, and complete. Do not include opinions or unrelated comments. Remember, the Executive Director, Office of the Inspector General (OIG), Attorney General's Office and State and Federal Court Officials may review your response. All grievances are confidential and may not be discussed between you and the offender or with other individuals. You are expected to return this investigation within 10 working days of receipt. Additional time may be requested by contacting the grievance investigator. Sign and date the form in the designated locations when completed and return it to the Unit Grievance Office. If you were provided a narrative copy of the grievance, it must also be returned to the Unit Grievance Office. The grievance may not be duplicated or shared with the accused staff member.

Please Provide the Following Documents

- |  |   |
|--|---|
| <input type="checkbox"/> Participant(s) Statement                    |   |
| <input type="checkbox"/> Witness(es) Statement (signed)              |   |
| <input type="checkbox"/> Activity Logs (Recreation, Shower, Feeding) | <input type="checkbox"/> Other                                      |
| <input type="checkbox"/> Shift Roster                                | <input type="checkbox"/> Staff or Offender Protection Investigation |
| <input type="checkbox"/> Ingress/Egress Log                          | <input type="checkbox"/> Property Inventory Forms                   |
| <input type="checkbox"/> Property Confiscation Form                  | <input type="checkbox"/> Property Logs                              |

## ALLEGATIONS:

Offender alleges on 03/04/2020 that 4 building was racked up for no reason other than an incident (stabbing) in another pod. Claims no reason to rack up the entire building. Claims everyone is being punished for the actions of a few. Claim they were fed johnnies and treated like they were the problem.

## EMPLOYEE STATEMENT:

PRINTED NAME

SIGNATURE

DATE

RANK/TITLE

SHIFT/DEPARTMENT

SUPERVISOR COMMENTS:

I have no knowledge of this incident at the time I was assigned to Restrictive Housing  
 R. Neal

PRINTED NAME

SIGNATURE

DATE

RANK/TITLE

SHIFT/DEPARTMENT



Step 1	<input checked="" type="checkbox"/>	Grievance #	Offender Name	TDCJ #	Unit
Step 2	<input type="checkbox"/>	2020085915	Fain, Roger	700474	ST



## Texas Department of Criminal Justice

### NOTICE OF EXTENSION

#### Offender Grievance Office

In accordance with the procedures outlined in BP-03.77, "Offender Grievances," and AD-03.82, "Management of Offender Grievances," you are hereby notified that additional time is necessary to complete the investigation of your:

#### Step 1 Grievance: (check the applicable box)

- ☐ An additional 30 days is needed for appropriate response to your disciplinary appeal.
- ☒ An additional 40 days is needed for appropriate response to your grievance.
- ☐ An additional 45 days is needed for appropriate response to your medical Step 1 grievance.

#### Step 2 Grievance: (check the applicable box)

- ☐ An additional 30 days is needed for appropriate response to your disciplinary appeal.
- ☐ An additional 40 days is needed for appropriate response to your Step 2 grievance.
- ☐ An additional 45 days is needed for appropriate response to your medical Step 2 grievance.

Y Reynolds UGI II

Name and Title

04/10/2020

Date

Original - Send to the Offender

Copy - Attach to the Grievance



Step 1		Grievance #	Offender Name	TDCJ #	Unit
Step 2	X	2020086915	Fain, Roger	700474	CY

(Check which box applies (Step 1 or Step 2))



Texas Department of Criminal Justice  
**NOTICE OF EXTENSION**  
Offender Grievance Office

In accordance with the procedures outlined in BP-03.77, "Offender Grievances," and AD-03.82, "Management of Offender Grievances," you are hereby notified that additional time is necessary to complete the investigation of your:

**Step 1 Grievance:** (check the applicable box)

- ☐ An additional 30 days is needed for appropriate response to your disciplinary appeal.
- ☐ An additional 40 days is needed for appropriate response to your grievance.
- ☐ An additional 45 days is needed for appropriate response to your medical Step 1 grievance.

**Step 2 Grievance:** (check the applicable box)

- ☐ An additional 30 days is needed for appropriate response to your disciplinary appeal.
- ☒ An additional 35 days is needed for appropriate response to your Step 2 grievance.
- ☐ An additional 45 days is needed for appropriate response to your medical Step 2 grievance.

M. Lolley, Adm. Asst. IV.  
Name and Title

September 22, 2020  
Date

Original – Send to the Offender  
Copy – Attach to the Grievance



## GRIEVANCE INVESTIGATION WORKSHEET

Restricted &amp; Confidential

GRIEVANCE OFFICE USE  
ONLY

STEP 1

STEP 2 X

Unit: CGO Investigator ID: I-2704 Date Initiated: 9/22/20 Date Completed: 11/12/20 Date Due: 11/12/20  
 Offender Name: Fain, Roger TDCJ No: 700474 Grievance Number: 2020086915

Issue Code:	EMERGENCY	ADA	( )	Property	( )	Use of Force (UOF)	( )
523	YES ( )	Disciplinary	( )	Religion	( )	Harassment or Retaliation*	( )
	NO (X)	Medical	( )	OPI Investigation	( )	PREA	( )

\*Harassment or Retaliation of Use of the Grievance Procedure, Access to Courts, or other Legal Activity

Note: Offenders are not allowed to review the grievance investigation worksheet at any time. For claims of sexual abuse, sexual assault, criminal acts by staff, Excessive or Unreported UOF, the investigation must be conducted by the Office of Inspector General (OIG) and the OIG Fact Sheet completed.

## Summary of Issue: (Include date, time and location):

On 3/4/20, offender claims 4 building was racked up for no reason other than an incident (stabbing) in another pod. Offender claims no reason to rack up the entire building. Offender claims everyone is being punished for the actions of a few. Offender claims they were fed Johnnies and treated like they were the problem.

## Requested Remedy:

To have the process of racking up an entire building due to an isolated incident investigated and re-evaluated and only punish those that deserve it instead of punishing everyone.

The following is to be completed and signed by the Investigating Official. Attach statements/supporting documentation, if applicable.

## Summary of Fact-Finding Activity:

1. Step 1
2. 8/7/20, statement from R. Neal, Major, notes that I have no knowledge of this incident at the time. I was assigned to restrictive housing.

## Suggested Response to Offender:

An investigation has been conducted into your complaint. Records indicate that there is no record of an incident in 4 building on said date. No further action warranted.

OUTCOME CODE: D RESOLUTION CODE: 2.01

Investigating official completes the section below:

Printed Name: M. Lolley

Signature: M. Lolley

Title: Central Grievance Analyst

Date: 11/12/20

This grievance is being processed in an effort to resolve a problem through the established procedures identified in BP-03.77 and AD-0382. It is expressly prohibited to subject the grievant, other offenders, or staff to any form of reprisal for the use of these procedures.





**Texas Department of Criminal Justice**  
**STEP 2**  
**OFFENDER**  
**GRIEVANCE FORM**

Offender Name: Roger Fain TDCJ # 00700474  
 Unit: Mark W. Stiles Housing Assignment: 4F 2 - 40B  
 Unit where incident occurred: Stiles

OFFICE USE ONLY	
Grievance #:	<u>2020070693</u>
UGI Recd Date:	<u>4-29-2020</u>
HQ Recd Date:	<u>MAY 1 - 2020</u>
Date Due:	<u>6-13</u>
Grievance Code:	<u>638</u>
Investigator ID#:	_____
Extension Date:	_____

*You must attach the completed Step 1 Grievance that has been signed by the Warden for your Step 2 appeal to be accepted. You may not appeal to Step 2 with a Step 1 that has been returned unprocessed.*

**Give reason for appeal (Be Specific).** *I am dissatisfied with the response at Step 1 because...*

Practice / Facility Manager, Edward DeLong failed wholly to address any of the issues presented on the Step-I Grievance, #2020070693, the issues presented where in simple phrases and sentences as well as in English, yet Mr. DeLong failed to answer, address, or acknowledge that any of "his" providers, in this case, Ms. E. Davis, and G. Daniels, acted in any way inappropriately, medical.  
Mr. DeLong's response, indicated that it was TDCJ, Classification I guess, that was responsible for the removal of several of my heat related restrictions. When in fact it was Ms. Emma Davis, not taking into account my need for the renewal of my medications, (The meds were renewed 1/6/20 by Mr. Daniels), she decided that I didn't need my "Doctor Issued" heat restrictions, she failed to address my Labs, and in general just blew my medical issues away.  
In a subsequent Grievance, 2020046310, Mr. DeLong references my 1/6/20 clinic visit as one to a blood pressure evaluation, yet on this instant grievance it was to send my PULHES to TDCJ, on my behalf.

I have written a number of Grievances against the Medical Department, Ms. Emma Davis, Mr. Gideon Daniels and Edward DeLong, and to date, not one grievance has been addressed properly, or for that matter properly investigated, which is, per UTMB-CMHC Policy A-12.1, Mr. DeLong's attempt at an informal resolution, which he has to date, never answered and/or address any I-60 sent to him.

Again, I wish to have my heat related restriction reinstated, I have a job assignment, and those restrictions are in place to protect me, my health, my safety, and those of the Unit.



This matter of Mr. DeLong's failure to address the issues, answer properly and timely submitted I-60's pursuant to UTMB-CMHC Policy A-12.1 to attempt informal resolutions, and then have the Office of Professional Standards reply that I didn't attempt to do a informal resolution, see Step-2 Grievance Response, #2020046310, States: "Further documentation indicates you did not attempt an informal resolution..." What Documentation??

Offender Signature: \_\_\_\_\_

Date: April 28th 2020

Grievance Response:

A review of the Step 1 medical grievance has been completed regarding your report your medical restrictions were deleted which put your life in danger.

According to the documentation, the appellate review of the medical grievance supports the response provided at the Step 1 level. You were evaluated by the provider and your PUHLES were updated at that time. The provider has assigned the medical restrictions he determined were necessary. The provider did evaluate you and did take into consideration your medications and the evaluation before adjusting or removing any medical restrictions. If you disagree with the medical decisions this does not necessarily constitute inappropriate medical care. There is no documentation to show you are in any danger or denied proper medical care.

Review of the documentation indicates you did not attempt informal resolution of your medical concerns with supervisory staff. The unit facility has a complaint process in place. Should you feel your medical concerns require further evaluation you may submit a Sick Call Request to the medical department.

STEP II MEDICAL GRIEVANCE 2-YEAR  
OFFICE OF PROFESSIONAL STANDARDS  
TDCJ HEALTH SERVICES DIVISION

Signature Authority: \_\_\_\_\_

Date:

5-6-2020

Returned because: \*Resubmit this form when corrections are made.

- ☐ 1. Grievable time period has expired.
- ☐ 2. Illegible/Incomprehensible.\*
- ☐ 3. Originals not submitted. \*
- ☐ 4. Inappropriate/Excessive attachments.\*
- ☐ 5. Malicious use of vulgar, indecent, or physically threatening language.
- ☐ 6. Inappropriate.\*

CGO Staff Signature: \_\_\_\_\_

**OFFICE USE ONLY****Initial Submission**

CGO Initials: \_\_\_\_\_

Date UGI Recd: \_\_\_\_\_

Date CGO Recd: \_\_\_\_\_

(check one) ☐ Screened ☐ Improperly Submitted

Comments: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

**2<sup>nd</sup> Submission**

CGO Initials: \_\_\_\_\_

Date UGI Recd: \_\_\_\_\_

Date CGO Recd: \_\_\_\_\_

(check one) ☐ Screened ☐ Improperly Submitted

Comments: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

**3<sup>rd</sup> Submission**

CGO Initials: \_\_\_\_\_

Date UGI Recd: \_\_\_\_\_

Date CGO Recd: \_\_\_\_\_

(check one) ☐ Screened ☐ Improperly Submitted

Comments: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

Exhibit 1

077





## Texas Department of Criminal Justice

# STEP 1 OFFENDER GRIEVANCE FORM

Offender Name: Roger Fain TDCJ # 00700474  
 Unit: Mark W. Stiles Housing Assignment: 4 B-3-60B  
 Unit where incident occurred: 10 Building/Infirmary Stiles Unit

## OFFICE USE ONLY

Grievance #: 2020070693  
 Date Received: JAN 31 2020  
 Date Due: 03-16-20  
 Grievance Code: 638  
 Investigator ID #: T2534  
 Extension Date: \_\_\_\_\_  
 Date Ret'd to Offender: APR 24 2020

You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? No One, Edward DeLong I attempted to talk to When? January 18th/28th

What was their response? Boyce, A.A., said to submit a Sick Call Request, failed to address issue

What action was taken? None!!

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate. This grievance concerns the Medical Department, Facility Manager Edward DeLong, Emma Davis, R-NP. Gideon Daniel, Provider, the issue is about denial of proper medical assessment, treatment and a disregard for the health and wellbeing of the Offender, me. My belief is that the medical Department has Retaliated against me for a earlier grievance that I filed against it, Grievance # 2020046310, (which hasn't been answered, yet, given 45 day additional time to reply); Deliberate Indifference to a serious medical need; & Medical Indifference.

I am assigned to the Stiles Unit due to several medical issues that I have restrictions assigned to me because of them. I arrived back from a 4½ month bench warrant to Tarrant County. When I was assigned to the McConnell Unit I was given a number of medicines, High Blood Pressure; Hyper-Tension; IBS. These meds were stopped, on March 19th 2019. I saw Ms. Emma Davis, R-NP in October to get my meds back, and my chronic medical care re-established, all Ms. Davis did for me was to take two Heat Restrictions from me, this I believe was for the benefit of the Classification Department so they could house me anywhere convenient instead of in special need housing. Ms. Davis ordered Labs done, yet I have not been seen since for a follow up.

January 6th 2020, I was seen by Provider Gideon Daniel, he reordered my medicine, ordered X-Rays of my neck, this I believe is due to the fact that I have a number of restrictions from 1996 due to injuries to my neck, and he is interested in seeing if he can take those restrictions. All of my restrictions were ordered by licenced Medical Doctors, not P.A.'S, Nurse Practitioners, my restrictions have been in place for a number of years, some decades old. To date, I haven't been called back by Provider Daniel for a follow-up concerning the X-Rays.

Per UTMB-CMHC Policy 12.1, I first contacted the Facility Practice Manager, Edward DeLong to attempt to resolve this matter, which is to have my restrictions reinstated, and left alone, I have had no response to my I-60's to Mr. DeLong, but did receive a reply from a Boyce, A.A. who



I don't have the faintest clue to who that is, and who authorized Boyce to reply to a proper submitted I-60 to Facility Practice Manager DeLong per UTMB-CMHC Policy 12.1. The reply was in fact not even close to resolving the issue stated in the I-60 to Mr. DeLong, thus, my attempt to do what is required by an Offender to make a informal attempt at a resolution concerning this matter was ignored by Medical Department, Edward DeLong, and the parties to this matter.

I am submitting this grievance "NOT TO THE MEDICAL DEPARTMENT, BUT TO THE UNIT" I am an Offender in TDCJ-CID, this Agency is responsible for my welfare, and health, UTMB-CMHC is a sub-contractor and if they chose "NOT TO TREAT ME" then it is the responsibility of this Agency to make sure I am treated properly. I have in this Grievance brought forth an issue to the attention of this Administration and the rank of this Unit, it should not be ignored.

**Action Requested to resolve your Complaint.**

I wish to have my restrictions reinstated, and for the Medical Department to leave me alone instead of working for the benefit of the Classification Department and for convenience of the Unit

Offender Signature: Logan Fain #700474

Date: Janaury 30th 2020

Grievance Response:

- Offender Fain, please be advised, you were seen on 1/6/2020 by Provider Daniels. On that day, Mr. Daniels sent PULHES restrictions to TDCJ on your behalf. You were provided care per policy. Continue to submit sick call request as medical issues arise. This grievance is unsubstantiated.

Signature Authority: Edward DeLong

Date: 4/26/20

If you are dissatisfied with the Step 1 response, you may submit a Step 2 (I-128) to the Unit Grievance Investigator within 15 days from the date of the Step 1 response. State the reason for appeal on the Step 2 Form.

Returned because: \*Resubmit this form when the corrections are made.

- ☐ 1. Filable time period has expired.
- ☐ 2. Submission in excess of 1 every 7 days \*
- ☐ 3. Originals not submitted \*
- ☐ 4. Inappropriate Excessive attachments \*
- ☐ 5. No documented attempt at informal resolution \*
- ☐ 6. No requested relief is stated \*
- ☐ 7. Malicious use of vulgar, indecent, or physically threatening language \*
- ☐ 8. The issue presented is not grievable.
- ☐ 9. Redundant, Refer to grievance # \_\_\_\_\_
- ☐ 10. Illegible Incomprehensible \*
- ☐ 11. Inappropriate \*

UGI Printed Name/Signature: \_\_\_\_\_

Application of the screening criteria for this grievance is not expected to adversely affect the offender's health.

Medical Signature Authority: \_\_\_\_\_

I-127 Back (Revised 11-2010)

**Exhibit 1**

**OFFICE USE ONLY**

Initial Submission: \_\_\_\_\_ UGI Initials: \_\_\_\_\_  
 Screening Criteria Used: \_\_\_\_\_  
 Date Recd from Offender: \_\_\_\_\_  
 Date Returned to Offender: \_\_\_\_\_  
 2<sup>nd</sup> Submission: \_\_\_\_\_ UGI Initials: \_\_\_\_\_  
 Grievance #: \_\_\_\_\_  
 Screening Criteria Used: \_\_\_\_\_  
 Date Recd from Offender: \_\_\_\_\_  
 Date Returned to Offender: \_\_\_\_\_  
 3<sup>rd</sup> Submission: \_\_\_\_\_ UGI Initials: \_\_\_\_\_  
 Grievance #: \_\_\_\_\_  
 Screening Criteria Used: \_\_\_\_\_  
 Date Recd from Offender: \_\_\_\_\_  
 Date Returned to Offender: \_\_\_\_\_

**079**



# TEXAS DEPARTMENT OF CRIMINAL JUSTICE

## OFFENDER GRIEVANCE PROGRAM

### NOTICE

All documentation that follows this sheet is restricted and confidential and is not to be released without the authorization of the administrator of offender grievances.

# RESTRICTED AND CONFIDENTIAL



## GRIEVANCE INVESTIGATION WORKSHEET

Restricted &amp; Confidential

GRIEVANCE OFFICE USE  
ONLY

STEP 1 X

STEP 2

Unit: ST Investigator ID: 2534 Date Initiated: 01/31/20 Date Completed: 4/23/20 Date Due: 03/16/2  
 Offender Name: Fain, Roger TDCJ No: 700474 Grievance Number: 2020070693

Issue Code:	EMERGENCY	ADA	( )	Property	( )	Use of Force (UOF)	( )
600	YES ( )	Disciplinary	( )	Religion	( )	Harassment or Retaliation*	( )
	NO (X)	Medical	(X)	OPI Investigation	( )	PREA	( )

\*Harassment or Retaliation of 1 or of the Grievance Procedure, Access to Courts, or other Legal Issues

Offenders are not allowed to review the grievance investigation worksheet at any time. For claims of sexual abuse, sexual assault, criminal acts by staff, the investigation must be conducted by the Office of Inspector General (OIG) and the OIG Fact Sheet completed.

## Summary of Issue: (Include date, time and location):

Claims that on 01/06/20 Dr Daniel refuses to reinstate his medical restrictions and a follow up concerning X rays.

## Requested Remedy:

To have my restrictions reinstated and medical to leave me alone

The following is to be completed and signed by the Investigating Official. Attach statements supporting documentation, if applicable.

## Summary of Fact Finding Activity:

Appendix L

## Suggested Response to Offender:

- Offender Fain, please be advised, you were seen on 1/6/2020 by Provider Daniels. On that day, Mr. Daniels sent PULHES restrictions to TDCJ on your behalf. You were provided care per policy. Continue to submit sick call request as medical issues arise. This grievance is unsubstantiated

OUTCOME CODE: D RESOLUTION CODE: 2, 0, 1

Investigating official completes the section below:

Printed Name:

Edward Delong

Signature:

Edward Delong

Title:

Sr. Practice Manager

Date:

4/22/20

This grievance is being processed in an effort to resolve a problem through the established procedures identified in BP-05 and SB-0302. It is expressly prohibited to subject the grievant, other offenders, or staff to any form of reprisal for the use of these procedures.



Offender Name: Fain, Roger TDCJ #: 700474 Unit: ST Grievance #: 2020070693

**Documents and Forms Required for Investigation of Medical Grievances**  
**The following forms and documentation are generally required for grievance investigations.**

	Date	Name & Title
1 Unit Grievance Investigator forwards the original grievance, or a copy for multiple issue medical grievances, the OG-01 worksheet, and <b>page 1 of this checklist</b> to the Medical Department.	01/31/20	S THOMAS UGI III
2 Unit Practice Manager/Health Administrator, or Director of Nursing/Nurse Administrator reviews issues, routes to responsible party and compiles the following paperwork:	4/17/20	Edward DeLone, SPM
2(a) Supporting documentation from the medical record	Y X N/A	Comments
• Provider/Nursing/Clinic Notes	<input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	
• Refusal forms	<input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/>	
• Sick Call Requests/Sick Call logs	<input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/>	
• Master Problem List	<input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/>	
• X-ray reports	<input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/>	
• Specialty clinic notes	<input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/>	
• Lab reports	<input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/>	
• PULHES/HSM-18	<input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/>	
• Passes-medication/medical issue items (braces, crutches, shoes, etc.)	<input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/>	
• Dental records	<input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/>	
• Mental health records	<input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/>	
• Treatment flow sheets	<input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/>	
• Lay-in lists	<input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/>	
• Security Logs	<input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/>	
• Compliance reports	<input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/>	
• Discharge summaries	<input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/>	
• Release of Information-Hospital Galveston only	<input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/>	
Provide other written records required to offer proof of provision of services. All persons participating in clinical and non-clinical services to offenders are bound by the same rules of confidentiality and shall not be excluded from viewing such records necessary to complete the review/appeal process.	<input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/>	
2(b) Copies of all signed statements from medical/dental/mental health staff who are specifically named in the Step 1 Grievance.	<input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/>	
2(c) Individual medical/dental/mental health discipline manager/designee findings & recommendations.	<input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/>	
2(d) Informal resolution attempted by the offender through the Facility Medical Complaints Coordinator before the Step 1 Grievance was filed.	<input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/>	
3 Sign and forward all compiled Health Services documentation and statements to the Grievance Investigator.	<input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	
4 Received by the Unit Grievance Investigator signature.	<input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	

\* The Unit Grievance Staff is responsible for obtaining non-medical statements and forwarding all investigative documents to the Central Grievance Office in Huntsville, if a Step 2 Offender Grievance is filed.



Step 1	<input checked="" type="checkbox"/>	Grievance #	Offender Name	TDCJ #	Unit
Step 2	<input type="checkbox"/>	2020070693	Fain, Rogers	700474	ST



## Texas Department of Criminal Justice

### NOTICE OF EXTENSION

#### Offender Grievance Office

In accordance with the procedures outlined in BP-03.77, "Offender Grievances," and AD-03.82, "Management of Offender Grievances," you are hereby notified that additional time is necessary to complete the investigation of your:

**Step 1 Grievance:** (check the applicable box)

- ☐ An additional 30 days is needed for appropriate response to your disciplinary appeal.
- ☐ An additional 40 days is needed for appropriate response to your grievance.
- ☒ An additional 45 days is needed for appropriate response to your medical Step 1 grievance.

**Step 2 Grievance:** (check the applicable box)

- ☐ An additional 30 days is needed for appropriate response to your disciplinary appeal.
- ☐ An additional 40 days is needed for appropriate response to your Step 2 grievance.
- ☐ An additional 45 days is needed for appropriate response to your medical Step 2 grievance.

Thomas SUGI III

Name and Title

Date

Original - Send to the Offender

Copy - Attach to the Grievance



# Grievance Investigation Worksheet

## Restricted & Confidential

Grievance Office Use Only		Step 1			
		Step 2 X			
Unit: ST - STILES		Investigator ID: YS00001		Date Initiated: 5/4/20	
				Date Completed: 5/6/20	
				Due Date: 6/13/20	
Offender Name: FAIN, ROGER		TDCJ No: 00700474		Grievance No: 2020070693	
Issue Code: 638	Emergency Yes ( ) No (X)	ADA ( ) Disciplinary ( ) Medical (X)	Property ( ) Religion ( ) OPI Investigation ( )	PREA ( ) Use of Force (UOF) ( ) Harrasment or Retaliation * ( )	
* Harrasment or Retaliation for use of the Grievance Procedure, Access to Courts, or other legal activity					
NOTE: Offenders are not allowed to review the grievance investigation worksheet at any time. For claims of sexual assault, sexual abuse, criminal acts by staff, Excessive or Unreported UOF, the investigation must be conducted by the Office of the Inspector General (OIG) and the OIG Fact Sheet completed.					
Summary of Issue: (include date, time and location.) See Step 1 OG-01 Grievance Investigation Worksheet					
The offender reports his medical restrictions were removed. He is requesting the restrictions be reinstated.					
Requested Remedy: See Step 1 OG-01 Grievance Investigation Worksheet					

The following is to be completed and signed by the Investigating Official. Attach Statements/Support Documentation, if applicable.

### Summary of Fact Finding Activity:

According to the documentation, the appellate review of the medical grievance supports the response provided at the Step 1 level. The offender was evaluated by the provider and his PUHLES were updated at that time. The provider has assigned the medical restrictions he determined were necessary. The provider did evaluate the offender and did take into consideration his medications and the evaluation before adjusting or removing any medical restrictions. If you disagree with the medical decisions this does not necessarily constitute inappropriate medical care. There is no documentation to show the offender is in any danger or has been denied proper medical care. Review of the documentation indicates the offender did not attempt informal resolution of his medical concerns with supervisory staff. The unit facility has a complaint process in place. Should the offender feel his medical concerns require further evaluation he may submit a Sick Call Request to the medical department.

### Suggested Response to Offender:

A review of the Step 1 medical grievance has been completed regarding your report your medical restrictions were deleted which put your life in danger.

According to the documentation, the appellate review of the medical grievance supports the response provided at the Step 1 level. You were evaluated by the provider and your PUHLES were updated at that time. The provider has assigned the medical restrictions he determined were necessary. The provider did evaluate you and did take into consideration your medications and the evaluation before adjusting or removing any medical restrictions. If you disagree with the medical decisions this does not necessarily constitute inappropriate medical care. There is no documentation to show you are in any danger or denied proper medical care.

Review of the documentation indicates you did not attempt informal resolution of your medical concerns with supervisory staff. The unit facility has a complaint process in place. Should you feel your medical concerns require further evaluation you may submit a Sick Call Request to the medical department.

OUTCOME CODE: DENIED/NO ACTION IS WARRANTED (Grievance Office Use Only)

RESOLUTION CODE: 2.01

Investigating Official completes the section below

Printed Name: ROBERT, SHANNON

Signature: S. Robert

Title: AAIV

Date: 5/8/20

This grievance is being processed in an effort to resolve a problem through the established procedures identified in BP-03.77 and AD-03.82. It is expressly prohibited to subject the grievant, other offenders, or staff to any form of reprisal for the use of these procedures.

LAVETHA SCOTT  
INVESTIGATOR III  
TDCJ HEALTH SERVICES

Grievance #: 2020070693

OG-01 Rev. 07/2016

Exhibit 1

084 Appendix H





**Texas Department of Criminal Justice**  
**STEP 2**  
**OFFENDER**  
**GRIEVANCE FORM**

**Offender Name:** Roger Fain **TDCJ #** 00700474  
**Unit:** Mark W. Stiles **Housing Assignment:** 4D 3 - 60B  
**Unit where incident occurred:** Stiles Unit Infirmary

**OFFICE USE ONLY**

**Grievance #:** 2020040310  
**UGI Recd Date:** 3-6-2020  
**HQ Recd Date:** MAR 10 2020  
**Date Due:** 4-20  
**Grievance Code:** UOL  
**Investigator ID#:** \_\_\_\_\_  
**Extension Date:** \_\_\_\_\_

*You must attach the completed Step 1 Grievance that has been signed by the Warden for your Step 2 appeal to be accepted. You may not appeal to Step 2 with a Step 1 that has been returned unprocessed.*

**Give reason for appeal (Be Specific).** *I am dissatisfied with the response at Step 1 because...*

The Step-1 was not properly responded to where the issues were plainly stated. Edward DeLong failed to address the issues of 1) Staging; 2) Be subjected to actions that are not permitted in TDCJ-CID at any time; and 3) Misstating the Medical Records.

TDCJ-CID has a policy against staging, this is for security and safety reasons. The Medical Department takes it upon itself to "over-load" the holding area of the Infirmary for their convenience. Throughout each TDCJ-CID Unit, the Max Capacity is posted on the walls, this posting is to insure that the area is operated properly, safely, and secured. Over-loading an area creates a safety and security problem. Delong states that it's securities responsibility to supervise the waiting area, and this is a fact, "BUT" it was the scheduling of the Medical Department that over filled the capacity of the waiting area on 11/25/19, the day in question.

Furthermore, A & C Pods are protected Pods, these Offenders are not premitted to mingle with the general population of the Unit, they are not premitted to eat in the chow hall at the same time as GP is, in fact GP is run out of the chow to allow the protected Pods to eat, yet the Medical Department schedules GP with the Protected Pods, thus in violation of the reasoning behind the whole protective Pod process. The Medical Department for the safety and security of the Protected individuals should only schedule GP & A & C Pod separately, AM / PM.

As for my 1/6/20 medical appointment, this wasn't for any blood pressure evaluation, this was to redo my meds that Emma Davis failed to do on 10/07/19. Gideon Daniel, PA, renewed 7 meds that I was taking prior to going on Bench Warrant, I had been back in the sysyem since 08/07/19, and my meds were not in their entirity renewed for 5 months. Delong stated that the medical department had my medical concerns in consideration, not so, all Davis did was take my heat restitutions



which is this Units directive due to lack of proper housing for those who have heat restitutions. On 1/06/20, the Provider 1) Renewed my Medications; 2) Refused to evaluate my October 2020 Labs; 3) Requested X-Rays, which were done on 1/13/20, but have not to date had any follow-up concerning the results and findings of those X-Rays. The medical department on this Unit is Sub-Standard their concern is doing as the Unit wishes, not in the best interest of the Offender.

Offender Signature: \_\_\_\_\_

Date: March 5th 2020

Grievance Response: \_\_\_\_\_

A review of the medical grievance and documentation has been completed regarding your medical complaint on 11/25/2019 the waiting area in medical was over booked at capacity and homosexual activities were not being supervised. To remedy this, you are requesting medical properly supervise waiting area activities so others do not have to watch.

An appellate review of the medical grievance and clinical record indicates the response from Step 1 is appropriate. Upon further review of your electronic health records, there is no documentation of harassment or retaliation against you. Furthermore, your allegations of homosexual activity and overbooking of appointments has been resolved at the unit level. As per Step 1 response, medical has been made aware of overbooking and to stagger offenders. Should you require further medical assistance, please utilize the sick call process.

Further documentation indicates you did not attempt an informal resolution of your medical concern with supervisory staff. Please refer to Correctional Managed Health Care (CMHC) policy A-12.1, attachment A, regarding getting medical treatment. No further action is warranted at this time through the grievance process.

STEP II MEDICAL GRIEVANCE PROGRAM  
OFFICE OF PROFESSIONAL STANDARDS  
TDCJ HEALTH SERVICES DIVISION

Signature Authority: \_\_\_\_\_

Date: \_\_\_\_\_

3-19-20

Returned because: \*Resubmit this form when corrections are made.

- ☐ 1. Grievable time period has expired.
- ☐ 2. Illegible/Incomprehensible.\*
- ☐ 3. Originals not submitted.\*
- ☐ 4. Inappropriate/Excessive attachments.\*
- ☐ 5. Malicious use of vulgar, indecent, or physically threatening language.
- ☐ 6. Inappropriate.\*

CGO Staff Signature: \_\_\_\_\_

## OFFICE USE ONLY

## Initial Submission

CGO Initials: \_\_\_\_\_

Date UGI Recd: \_\_\_\_\_

Date CGO Recd: \_\_\_\_\_

(check one) ☐ Screened ☐ Improperly Submitted

Comments: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

2<sup>nd</sup> Submission

CGO Initials: \_\_\_\_\_

Date UGI Recd: \_\_\_\_\_

Date CGO Recd: \_\_\_\_\_

(check one) ☐ Screened ☐ Improperly Submitted

Comments: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

3<sup>rd</sup> Submission

CGO Initials: \_\_\_\_\_

Date UGI Recd: \_\_\_\_\_

Date CGO Recd: \_\_\_\_\_

(check one) ☐ Screened ☐ Improperly Submitted

Comments: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

Exhibit 1

086





## Texas Department of Criminal Justice

## STEP 1

OFFENDER  
GRIEVANCE FORM

Offender Name: Roger Fain TDCJ # 00700474  
 Unit: Mark W. Stiles Housing Assignment: 4D 3-60B  
 Unit where incident occurred: Unit (Stiles) Infirmary

## OFFICE USE ONLY

Grievance #: 2020046310  
 Date Received: DEC 09 2019  
 Date Due: 01-23-20  
 Grievance Code: 404  
 Investigator ID #: J2534  
 Extension Date: 03-08-20  
 Date Read to Offender: MAR 04 2020

You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? Practice Facility Manager (I-60) When? 11/26/19

What was their response? Ignored-failed to answer within a 10 day period

What action was taken? None

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate. On 11/25/19, I had a lay-in to the Medical Department to see provider Emma Davis, R NP, for what reason I'm not sure of. This was during a Unit lockdown, my lay-in was for 5:30am, and I didn't get escorted to the Infirmary until after 7:10am. When I arrived the Infirmary waiting area inside and outside of the caged area was packed. Once I submitted my lay-in to the Officer I was put into the waiting area cage, and I counted the amount of people who were there, inside and outside of the cage. I counted 72 individuals, and 3 security Officers. The Infirmary waiting area has a sitting capacity of 42 people.

My Grievance is twofold, first the Medical Department by laying in so many people "Staged" the waiting area to a capacity that was overflowing and possibly creating a safety issue; Secondly, the Medical Department is "Allowing, Condoning, and Supporting" homosexual activities, to wit, allowing homosexuals off of 3 Building to meet up with their "Lovers" in the waiting area of the Infirmary under the ruse of "Seeking medical attention, or Respite for heat." These "Offenders" either have to have an escort to the Infirmary, or a valid lay-in to be there, but whatever the reasoning, the Medical Department, by failing to supervise the waiting area looks the other direction while the "activities" are going on. While I was there, I witnessed no less than 3 different "couples" enjoying their activities while those around them had to be subjected to what they were doing.

They lack of proper supervision by the Medical Department concerning the "over booking" of Offenders for seeing the providers, or receiving whatever medical treatments raises the issue of the safety of Offenders in an area that is designated for only 42 Offenders to safely sit, this designation is determined by the benches inside the waiting area, and what is deemed adequate for security to maintain the safety of those inside the waiting area.

I believe that my allegations can be supported by the fact that the waiting area does have an

REC'D 03-04-20



camera, thus can be reviewed to verify what I am talking about concerning both the issue of the staging of Offenders, and the amount on that day and time; and the activities of several of the participates that I have mentioned within.

CC Patient Liaison Program, (PLP)

Mr. James Booker, (TDCJ-CID)

P.O. Box 99

Central Grievance

Huntsville, Texas 77342-0099

1060 State HWY 190 East

Huntsville, Texas 77320

Action Requested to resolve your Complaint.

Would like to see the Medical Department properly supervise the waiting area so those of us who are there for legitimate reasons aren't subjected to the activities of those who aren't.

Offender Signature:

*Logan Fain*

700474

Date: December 6th 2019

Grievance Response:

- Offender Fain, please be advised after reviewing your medical records and grievance, we take your medical concerns into full consideration. You were indeed scheduled a provider appointment on 11/25/19, in which you left prior to being seen. Please keep in mind; it is imperative to keep and attend all scheduled appointments in order to receive the care needed. You were finally seen by the provider on 1/6/20 for blood pressure evaluation. The medical department has been made aware of the capacity of the cage and informed to stagger patient appointments. It is security's responsibility to ensure that inappropriate things aren't occurring in the waiting area. Also, it is security's responsibility to manage the flow of the cage. Please submit sick call request as necessary. You have been provided care per policy. This grievance is unsubstantiated.

Signature Authority:

*James Booker*

Date: 3/2/20

If you are dissatisfied with the Step 1 response, you may submit a Step 2 (I-128) to the Equal Opportunity Grievance Center within 15 days from the date of the Step 1 response. State the reason for appeal on the Step 2 Form.

Note: and because: \*Resubmit this form when the corrections are made.

- ☐ 1. Complaint has past time expired
- ☐ 2. Submitted in the wrong box (wrong day) \*
- ☐ 3. Original not submitted \*
- ☐ 4. Inappropriate/Excessive attachments
- ☐ 5. No documented attempt at informal resolution \*
- ☐ 6. No requested relief is stated \*
- ☐ 7. Malicious use of vulgar, indecent, or physically threatening language
- ☐ 8. The issue presented is not grievable
- ☐ 9. Redundant. Refer to grievance # \_\_\_\_\_
- ☐ 10. Illegible/Incomprehensible \*
- ☐ 11. Inappropriate \*

UGI Printed Name/Signature: \_\_\_\_\_

Application of the screening criteria for this grievance is not expected to adversely affect the offender's health.

Medical Signature Authority: \_\_\_\_\_

Exhibit 1

I-127 Back (Revised 11-2010)

### OFFICE USE ONLY

Initial Submission UGI Initials: \_\_\_\_\_

Grievance #: \_\_\_\_\_

Screening Criteria Used: \_\_\_\_\_

Date Recd from Offender: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

2nd Submission UGI Initials: \_\_\_\_\_

Grievance #: \_\_\_\_\_

Screening Criteria Used: \_\_\_\_\_

Date Recd from Offender: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

3rd Submission UGI Initials: \_\_\_\_\_

Grievance #: \_\_\_\_\_

Screening Criteria Used: \_\_\_\_\_

Date Recd from Offender: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

088



**TEXAS  
DEPARTMENT OF CRIMINAL  
JUSTICE**

**OFFENDER GRIEVANCE PROGRAM**

**NOTICE**

All documentation that follows this sheet is restricted and confidential and is not to be released without the authorization of the administrator of offender grievances.

**RESTRICTED  
AND  
CONFIDENTIAL**



## GRIEVANCE INVESTIGATION WORKSHEET

Restricted &amp; Confidential

GRIEVANCE OFFICE USE  
ONLY

STEP 1 X

STEP 2

Unit: ST Investigator ID: I 2534 Date Initiated: 12/09/19 Date Completed: 3-3-20 Date Due: 01/23/19  
 Offender Name: Fain, Roger TDCJ No: 700474 Grievance Number: 2020046310

Issue Code:	EMERGENCY	ADA	( )	Property	( )	Use of Force (UOF)	( )
606	YES ( )	Disciplinary	( )	Religion	( )	Harassment or Retaliation*	( )
	NO (X)	Medical	(X)	OPI Investigation	( )	PREA	( )

\*Harassment or Retaliation of Use of the Grievance Procedure, Access to Courts, or other Legal Activity

Note: Offenders are not allowed to review the grievance investigation worksheet at any time. For claims of sexual abuse, sexual assault, criminal acts by staff, Excessive or Unreasonable UOF, the investigation must be conducted by the Office of Inspector General (OIG) and the OIG Fact Sheet completed.

## Summary of Issue: (Include date, time and location):

Claims that on 11-25-19 he had a layin for medical department to see provider Davis when he arrived to infirmary at 7:10am for a layin that was for 530am the waiting area was packed over capacity of 42 people namely he counted 72 people. Claims that homosexual activities were taken place witnessed 3 different couples enjoying themselves. Claims that this is lack of supervision on medical department due to overbooking and tagging offenders.

## Requested Remedy:

To be seen by DR and have this noted

The following is to be completed and signed by the Investigating Official. Attach statements/supporting documentation, if applicable.

## Summary of Fact Finding Activity:

Appendix L

## Suggested Response to Offender:

Offender Fain, please be advised after reviewing your medical records and grievance, we take your medical concerns into full consideration. You were indeed scheduled a provider appointment on 11/25/19, in which you left prior to being seen. Please keep in mind; it is imperative to keep and attend all scheduled appointments in order to receive the care needed. You were finally seen by the provider on 1/6/20 for blood pressure evaluation. The medical department has been made aware of the capacity of the cage and informed to stagger patient appointments. It is security's responsibility to ensure that inappropriate things aren't occurring

OUTCOME CODE: 2.01 RESOLUTION CODE: 2.01  
 Investigating official completes the section below:  
 Printed Name: Edward Delone Signature: Edward D Delone  
 Title: Sr. Practice Manager Date: 3/2/20

Printed Name:

Signature:

Title:

Date:

This grievance is being processed in an effort to resolve a problem through the established procedures identified in RP-03.77 and AD-03X2. It is expressly prohibited to subject the grievant, other offenders, or staff to form of reprisal for the use of these procedures.

Exhibit 1

090



Offender Name: Fain, Roger TDCJ #: 700474 Unit: ST Grievance #: 2020046310

**Documents and Forms Required for Investigation of Medical Grievances**  
**The following forms and documentation are generally required for grievance investigations.**

	Date	Name & Title
1 Unit Grievance Investigator forwards the original grievance, or a copy for multiple issue medical grievances, the OG-01 worksheet, and <b>page 1 of this checklist</b> to the Medical Department.	12-09-19	S THOMAS UGI III
2 Unit Practice Manager/Health Administrator, or Director of Nursing/Nurse Administrator reviews issues, routes to responsible party and compiles the following paperwork:	3/2/20	Edward De lone, SPM
2(a) Supporting documentation from the medical record	Y N N/A	Comments
• Provider/Nursing/Clinic Notes	<input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	
• Refusal forms	<input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/>	
• Sick Call Requests/Sick Call logs	<input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/>	
• Master Problem List	<input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/>	
• X-ray reports	<input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/>	
• Specialty clinic notes	<input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/>	
• Lab reports	<input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/>	
• PULHES/HSM-18	<input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/>	
• Passes-medication/medical issue items (braces, crutches, shoes, etc.)	<input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/>	
• Dental records	<input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/>	
• Mental health records	<input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/>	
• Treatment flow sheets	<input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/>	
• Lay-in lists	<input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/>	
• Security Logs	<input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/>	
• Compliance reports	<input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/>	
• Discharge summaries	<input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/>	
• Release of Information-Hospital Galveston only	<input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/>	
Provide other written records required to offer proof of provision of services. All persons participating in clinical and non-clinical services to offenders are bound by the same rules of confidentiality and shall not be excluded from viewing such records necessary to complete the review/appeal process.	<input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/>	
2(b) Copies of all signed statements from medical/dental/mental health staff who are specifically named in the Step 1 Grievance.	<input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/>	
2(c) Individual medical/dental/mental health discipline manager/designee findings & recommendations.	<input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/>	
2(d) Informal resolution attempted by the offender through the Facility Medical Complaints Coordinator before the Step 1 Grievance was filed.	<input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/>	
3 Sign and forward all compiled Health Services documentation and statements to the Grievance Investigator.	<input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<i>Edward De lone</i>
4 Received by the Unit Grievance Investigator signature.	<input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<i>STH</i>

\* The Unit Grievance Staff is responsible for obtaining non-medical statements and forwarding all investigative documents to the Central Grievance Office in Huntsville, if a Step 2 Offender Grievance is filed.



Step 1	<input checked="" type="checkbox"/>	Grievance #	Offender Name	TDCJ #	Unit
Step 2	<input type="checkbox"/>	2020046310	Fain, Roger	700474	ST



## Texas Department of Criminal Justice

### NOTICE OF EXTENSION

#### Offender Grievance Office

In accordance with the procedures outlined in BP-03.77, "Offender Grievances," and AD-03.82, "Management of Offender Grievances," you are hereby notified that additional time is necessary to complete the investigation of your:

**Step 1 Grievance:** *(check the applicable box)*

- ☐ An additional 30 days is needed for appropriate response to your disciplinary appeal.
- ☐ An additional 40 days is needed for appropriate response to your grievance.
- ☒ An additional 45 days is needed for appropriate response to your medical Step 1 grievance.

**Step 2 Grievance:** *(check the applicable box)*

- ☐ An additional 30 days is needed for appropriate response to your disciplinary appeal.
- ☐ An additional 40 days is needed for appropriate response to your Step 2 grievance.
- ☐ An additional 45 days is needed for appropriate response to your medical Step 2 grievance.

S. THOMAS UGI III

\_\_\_\_\_  
Name and Title

01-22-20  
Date

Original – Send to the Offender

Copy – Attach to the Grievance



# Grievance Investigation Worksheet

*Restricted & Confidential*

<b>Grievance Office Use Only</b>		<b>Step 1</b>			
		<b>Step 2 X</b>			
<b>Unit:</b> ST - STILES		<b>Investigator ID:</b> HC00101	<b>Date Initiated:</b> 3/17/20	<b>Date Completed:</b> 3/18/20	<b>Due Date:</b> 4/20/20
<b>Offender Name:</b> FAJN, ROGER		<b>TDCJ No:</b> 00700474		<b>Grievance No:</b> 2020046310	
<b>Issue Code:</b> B00, B03, B09, B06, 631	<b>Emergency</b> Yes ( ) No (X)	ADA ( ) Disciplinary ( ) Medical (X)	Property ( ) Religion ( ) OPI Investigation ( )	PREA ( ) Use of Force (UOF) ( ) Harassment or Retaliation * ( )	
<small>* Harassment or Retaliation for use of the Grievance Procedure, Access to Courts, or other legal activity</small>					
<p><b>NOTE: Offenders are not allowed to review the grievance investigation worksheet at any time. For claims of sexual assault, sexual abuse, criminal acts by staff, Excessive or Unreported UOF, the investigation must be conducted by the Office of the Inspector General (OIG) and the OIG Fact Sheet completed.</b></p> <p><b>Summary of Issue: (include date, time and location.)</b> See Step 1 OG-01 Grievance Investigation Worksheet</p> <p><u>The offender claims on 11/25/2019 the waiting area in medical was over booked at capacity and homosexual activities were not being supervised. To remedy this, he is requesting medical properly supervise waiting area activities so others do not have to watch.</u></p> <p><b>Requested Remedy:</b> See Step 1 OG-01 Grievance Investigation Worksheet.</p>					

The following is to be completed and signed by the Investigating Official. Attach Statements/Support Documentation, if applicable.

## Summary of Fact Finding Activity:

The appellate review concurs with the response at Step 1. No documentation of retaliation or harassment. Resolved at unit level.

## Suggested Response to Offender:

A review of the medical grievance and documentation has been completed regarding your medical complaint on 11/25/2019 the waiting area in medical was over booked at capacity and homosexual activities were not being supervised. To remedy this, you are requesting medical properly supervise waiting area activities so others do not have to watch.

An appellate review of the medical grievance and clinical record indicates the response from Step 1 is appropriate. Upon further review of your electronic health records, there is no documentation of harassment or retaliation against you. Furthermore, your allegations of homosexual activity and overbooking of appointments has been resolved at the unit level. As per Step 1 response, medical has been made aware of overbooking and to stagger offenders. Should you require further medical assistance, please utilize the sick call process.

Further documentation indicates you did not attempt an informal resolution of your medical concern with supervisory staff. Please refer to Correctional Managed Health Care (CMHC) policy A-12.1, attachment A, regarding getting medical treatment. No further action is warranted at this time through the grievance process.

**OUTCOME CODE:** DENIED/NO ACTION IS WARRANTED (Grievance Office Use Only)

**RESOLUTION CODE:** 2.01

Investigating Official completes the section below.

**Printed Name:** ESTES, CHERYN

**Signature:** 

**Title:** Administrative Assistant IV

**Date:** 3/20/20

This grievance is being processed in an effort to resolve a problem through the established procedures identified in BP-03.77 and AD-03.82. It is expressly prohibited to subject the grievant, other offenders, or staff to any form of reprisal for the use of these procedures.

4-10

**Dale Dorman, RN**  
Manager III  
TDCJ Health Services

**Grievance #:** 2020046310

OG-01 Rev. 07/2016

Exhibit 1

093 Appendix H





**Texas Department of Criminal Justice**  
**STEP 2**  
**OFFENDER**  
**GRIEVANCE FORM**

**Offender Name:** Roger Fain **TDCJ #** 00700474  
**Unit:** Mark W. Stiles **Housing Assignment:** 4D 3 - 60B  
**Unit where incident occurred:** 4 Building D-Pod Stiles Unit

**OFFICE USE ONLY**

**Grievance #:** 2020042352  
**UGI Recd Date:** 01-10-20  
**HQ Recd Date:** JAN 14 2020  
**Date Due:** 02-19  
**Grievance Code:** 703  
**Investigator ID#:** \_\_\_\_\_  
**Extension Date:** \_\_\_\_\_

*You must attach the completed Step 1 Grievance that has been signed by the Warden for your Step 2 appeal to be accepted. You may not appeal to Step 2 with a Step 1 that has been returned unprocessed.*

**Give reason for appeal (Be Specific).** *I am dissatisfied with the response at Step 1 because...*

The issue raised, "Denial Of Access To Court & Failing to Provide Legal Cases/Citings During A Unit Lockdown."

My Grievance was filed in "Good Faith" hoping that the issue would be properly addressed and resolved, instead, whoever Investigated the issue and/or whoever Answered the issue failed to understand that the issue was about "NOT RECEIVING LEGAL CASES/CITINGS DURING LOCKDOWN NOT ABOUT RECEIVING INDIGENT SUPPLIES."

Furthermore, I do not have a clue as to who signed off on the Step I Grievance, there is no indication if it is a Warden's signature, or someone other than the Warden, but whoever it is very arrogant, and their arrogance is reflected in the signature, or better yet is so embarrassed by the Grievance Response that they didn't wish to have anyone know who exactly reviewed the Step I and responded by signing off on the response.

Here is another example on what a joke the TDCJ-CID Grievance procedure actually is, not only on Stiles, but on other Units. Its a system that is broken, in this sense it doesn't work for the person who actually brings the Grievance, but is very beneficial for the party who is the reason for the Grievance in the first place.

Copy of this Grievance has been sent to James Booker, Central Grievance Coordinator in Huntsville



Offender Signature: \_\_\_\_\_

Date: January 9th 2020

Grievance Response: \_\_\_\_\_

Your step 1 complaint has been noted. The delivery of legal research material to offenders with indirect access to the law library will be conducted, in accordance with ATC-080. No further action is warranted.

K. Ward, Program Administrator  
Access to Courts, Counsel and Public Officials

Signature Authority: \_\_\_\_\_

Date: 1-30-2020

Returned because: \*Resubmit this form when corrections are made.

- ☐ 1. Grievable time period has expired.
- ☐ 2. Illegible/Incomprehensible.\*
- ☐ 3. Originals not submitted. \*
- ☐ 4. Inappropriate/Excessive attachments.\*
- ☐ 5. Malicious use of vulgar, indecent, or physically threatening language.
- ☐ 6. Inappropriate.\*

CGO Staff Signature: \_\_\_\_\_

**OFFICE USE ONLY****Initial Submission**

CGO Initials: \_\_\_\_\_

Date UGI Recd: \_\_\_\_\_

Date CGO Recd: \_\_\_\_\_

(check one) ☐ Screened ☐ Improperly Submitted <sup>is</sup>

Comments: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

**2<sup>nd</sup> Submission**

CGO Initials: \_\_\_\_\_

Date UGI Recd: \_\_\_\_\_ <sup>is</sup>

Date CGO Recd: \_\_\_\_\_

(check one) ☐ Screened ☐ Improperly Submitted <sup>qc</sup>

Comments: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

**3<sup>rd</sup> Submission**

CGO Initials: \_\_\_\_\_

Date UGI Recd: \_\_\_\_\_

Date CGO Recd: \_\_\_\_\_

(check one) ☐ Screened ☐ Improperly Submitted

Comments: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

Exhibit 1

095





## Texas Department of Criminal Justice

# STEP 1 OFFENDER GRIEVANCE FORM

Offender Name: Roger Fain TDCJ # 00700474  
 Unit: Mark W. Stiles Housing Assignment: 4D 3-60B  
 Unit where incident occurred: Stiles

## OFFICE USE ONLY

Grievance #: 2020042352  
 Date Received: DEC 02 2019  
 Date Due: 01-11-20  
 Grievance Code: 703  
 Investigator ID #: I15200  
 Extension Date: \_\_\_\_\_  
 Date Retd to Offender: 11/11/2020

You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? Officer Simon, Law Library When? 11/27/2019

What was their response? I was told that legawork was passed out by buildings, not by when it came in

What action was taken? None, I have been denied legalwork thus denied access to courts.

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate

On November 12th 2019, this Unit went down on lockdown for a shakedown. On that date I submitted a Request for case citings. On 11.21 I received those case citings. I resubmitted those for other case citings when Mr. Simon of the Law Library picked up the cases I received on 11/21, this was a friday, 11/22. I was told then that I would receive my next requests on the following monday, 11/25. Monday came and went, no cases, tuesday came, and Mr. Simon passed out legalwork on 4D sections 1, 2, & 3, yet I didn't receive my requested case citings. When Mr. Simon came to pick up the legalwork that he passed out on tuesday, I asked him about my submitted request for case citings, he informed me that they do the legalwork by buildings. This I understand, but my request for case citings was submitted and picked up on friday, 11.22, ample time to have receive my case citings on monday or tuesday, when others on 4 Building received theirs.

I have two active cases going in the Courts, Williamson County, Cause No: 95-112-K277; and in Tarrant County, Cause No: 1023944D / 02-08-00002-CR. The lack of receiving the requested case citings has put me in a position where I could become time barred from further pursuing my cases through the Courts. The Law Library on the Stiles Unit by their inaction to my requests for case citings has "Knowingly, Intentionally, and with Deliberate Indifference" to my case denied me adequate recourse to properly research, and present my case to the Courts. They are in violation of TDCJ-CID Policies, Procedures, & Regulations concerning Access To Courts. By failing to get me my requested case citings, and to deliver those cases to me, has the potential of denying me legal recourse in the Courts, and the Courts aren't concerned about the Unit Law Library's failure to deliver, because it is the responsibility of the appellate to meet any and all Court deadlines, not the Law Library, and that is why TDCJ-CID Has Policies in place concerning the Access To Courts Regulations so the appellate/offender isn't denied legal recourse in the Courts.



C.C. Access To Courts, 1036 11TH Street, Huntsville, Texas 77340;

James Booker, (TDCJ-CID), Central Grievance, 1060 State HWY 190 East, Huntsville, Texas 773

**Action Requested to resolve your Complaint.**

That the Law Library comply with the TDCJ-CID Policies concerning Access To Courts, and for me to be free of any Administrative retaliation for grieving this matter.

Offender Signature: Rogers 700474 Date: November 27th 2019

Grievance Response:

Your grievance was reviewed and investigated. It was found that you have not requested any indigent supplies. You need to submit an I-302 or I-60 to the Law Library Department if you need indigent supplies. No further action warranted.

Signature Authority: KMR

Date: 1-7-2020

If you are dissatisfied with the Step 1 response, you may submit a Step 2 (I-128) to the Unit Grievance Investigator within 15 days from the date of the Step 1 response. State the reason for appeal on the Step 2 Form.

Returned because: \*Resubmit this form when the corrections are made.

- ☐ 1. Grievable time period has expired.
- ☐ 2. Submission in excess of 1 every 7 days. \*
- ☐ 3. Originals not submitted. \*
- ☐ 4. Inappropriate/Excessive attachments. \*
- ☐ 5. No documented attempt at informal resolution. \*
- ☐ 6. No requested relief is stated. \*
- ☐ 7. Malicious use of vulgar, indecent, or physically threatening language. \*
- ☐ 8. The issue presented is not grievable.
- ☐ 9. Redundant, Refer to grievance # \_\_\_\_\_
- ☐ 10. Illegible/Incomprehensible. \*
- ☐ 11. Inappropriate. \*

UGI Printed Name/Signature: \_\_\_\_\_

Application of the screening criteria for this grievance is not expected to adversely Affect the offender's health.

Medical Signature Authority: \_\_\_\_\_

I-127 Back (Revised 11-2010)

Exhibit 1

**OFFICE USE ONLY**

Initial Submission UGI Initials: \_\_\_\_\_

Grievance #: \_\_\_\_\_

Screening Criteria Used: \_\_\_\_\_

Date Recd from Offender: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

**2<sup>nd</sup> Submission** UGI Initials: \_\_\_\_\_

Grievance #: \_\_\_\_\_

Screening Criteria Used: \_\_\_\_\_

Date Recd from Offender: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

**3<sup>rd</sup> Submission** UGI Initials: \_\_\_\_\_

Grievance #: \_\_\_\_\_

Screening Criteria Used: \_\_\_\_\_

Date Recd from Offender: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

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Appendix F

Rec'd 01-08-20



**TEXAS  
DEPARTMENT OF CRIMINAL  
JUSTICE**

**OFFENDER GRIEVANCE PROGRAM**

**NOTICE**

All documentation that follows this sheet is restricted and confidential and is not to be released without the authorization of the administrator of offender grievances.

**RESTRICTED  
AND  
CONFIDENTIAL**



## GRIEVANCE INVESTIGATION WORKSHEET

d &amp; Confidential

EVANCE OFFICE USE  
LY

STEP 1 X

STEP 2

it: ST Investigator ID: I 1122

Date Initiated: 12/02/19

Date Completed: 1/3/20

Date Due: 01/11/20

Offender Name: Fain, Roger

TDCJ No:

700474

Grievance Number: 2020042352

Issue Code: 703	EMERGENCY	ADA	( )	Property	( )	Use of Force (UOF)	( )
	YES ( )	Disciplinary	( )	Religion	( )	Harassment or Retaliation*	( )
	NO (X)	Medical	( )	OPI Investigation	( )	PREA	( )

*\*Harassment or Retaliation of Use of the Grievance Procedure, Access to Courts, or other Legal Activity*

Note: Offenders are not allowed to review the grievance investigation worksheet at any time. For claims of sexual abuse, sexual assault, criminal acts by staff, Excessive or Unreported UOF, the investigation must be conducted by the Office of Inspection General (OIG) and the OIG Fact Sheet completed.

## Summary of Issue: (Include date, time and location):

Offender says that he was denied access to legal material during the Lockdown

## Requested Remedy:

Wants Law Library to follow TDCJ Policy

The following is to be completed and signed by the Investigator. Attach statements/supporting documentation, if applicable.

## Summary of Fact Finding Activity:

Statement- L. Jones/Law Librarian III

## Suggested Response to Offender:

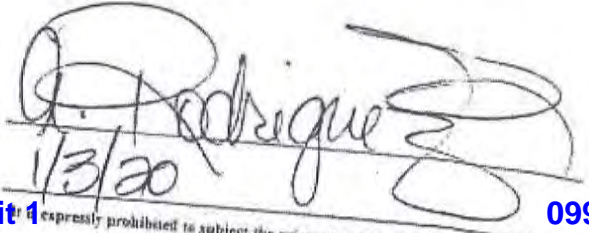
Your grievance was reviewed and investigated. It was found that you have not requested any indigent supplies. You need to submit form I-60 to the Law Library Department if you need indigent supplies. No further action was taken.

OUTCOME CODE: D RESOLUTION CODE: 2.02

Investigating official completes the section below

Printed Name: A. Rodriguez

Title: UGI

Signature: 

Date: 1/3/20

This grievance is being processed in an effort to resolve a problem through procedures identified in BP-03.77. It is expressly prohibited to subject the grievant, other offenders, or staff to any form of reprisal for the use of these procedures.

Exhibit 1

099



## GRIEVANCE INVESTIGATION WORKSHEET

Restricted &amp; Confidential

GRIEVANCE OFFICE USE  
ONLY

STEP 1 X

STEP 2

Unit: ST Investigator ID: I 1122 Date Initiated: 12/02/19 Date Completed: 1/3/20 Date Due: 01/11/20  
 Offender Name: Fain, Roger TDCJ No: 700474 Grievance Number: 2020042352

Issue Code:	EMERGENCY	ADA	( )	Property	( )	Use of Force (UOF)	( )
703	YES ( )	Disciplinary	( )	Religion	( )	Harassment or Retaliation*	( )
	NO (X)	Medical	( )	OPI Investigation	( )	PREA	( )

\*Harassment or Retaliation of Use of the Grievance Procedures, Access to Courts, or other Legal Activity

Note: Offenders are not allowed to review the grievance investigation worksheet at any time. For claims of sexual abuse, sexual assault, criminal acts by staff, Excessive or Unreported UOF, the investigation must be conducted by the Office of Inspector General (OIG) and the OIG Fact Sheet completed.

## Summary of Issue: (Include date, time and location):

Offender says that he was denied access to legal material during the Lockdown

## Requested Remedy:

Wants Law Library to follow TDCJ Policy

The following is to be completed and signed by the Investigating Official. Attach statements/supporting documentation, if applicable.

## Summary of Fact Finding Activity:

1. Statement- L. Jones/Law Librarian III

## Suggested Response to Offender:

Your grievance was reviewed and investigated. It was found that you have not requested any indigent supplies. You need to submit an I-302 or I-60 to the Law Library Department if you need indigent supplies. No further action warranted.

OUTCOME CODE: D RESOLUTION CODE: 2.02

Investigating official completes the section below:

Printed Name: A. Rodriguez

Signature: [Signature]

Title: UGI

Date: 1/3/20

This grievance is being processed in an effort to resolve a problem through the established procedures identified in BP-03.77 and AD-0382. It is expressly prohibited to subject the grievant, other offenders, or staff to any form of reprisal for the use of these procedures.

Exhibit 1

100



## GRIEVANCE INVESTIGATION WORKSHEET

## Official Statement

Unit: ST Staff Name: Law Library Grievance #: 2020042352 Date: 12/02/19  
 Offender Name: FAIN, ROGER TDCJ#: 00700474 Housing Location: 4-D-3-69B - 01/11/20

In accordance with BP 03.77, you are required to participate in this investigation as noted. Address each allegation thoroughly. Do not respond with indefinite answers such as "I don't know" or "I have no knowledge of". If you have no knowledge, explain the reason why. (e.g., I was on vacation; I was not assigned there, etc.) Your answers are to be factual, professional, and complete. Do not include opinions or unrelated comments. Remember, the Executive Director, Office of the Inspector General (OIG), Attorney General's Office and State and Federal Court Officials may review your response. All grievances are confidential and may not be discussed between you and the offender or with other individuals. You are expected to return this investigation within 10 working days of receipt. Additional time may be requested by contacting the grievance investigator. Sign and date the form in the designated locations when completed and return it to the Unit Grievance Office. If you were provided a narrative copy of the grievance, it must also be returned to the Unit Grievance Office. The grievance may not be duplicated or shared with the accused staff member.

Please Provide the Following Documents

- |  |   |
|--|---|
| <input type="checkbox"/> Participant(s) Statement                    |   |
| <input type="checkbox"/> Witness (es) Statement (signed)             |   |
| <input type="checkbox"/> Activity Logs (Recreation, Shower, Feeding) | <input type="checkbox"/> Other                                      |
| <input type="checkbox"/> Shift Roster                                | <input type="checkbox"/> Staff or Offender Protection Investigation |
| <input type="checkbox"/> Ingress/Egress Log                          | <input type="checkbox"/> Property Inventory Forms                   |
| <input type="checkbox"/> Property Confiscation Form                  | <input type="checkbox"/> Property Logs                              |

## ALLEGATIONS:

Offender claim he denied his indigent supplies on November 26, 2019, during the institutional lock down. Please explain or confirm if offender was given his indigent supplies in accordance with procedure and policy?

## EMPLOYEE STATEMENT:

PRINTED NAME

SIGNATURE

DATE

RANK/TITLE

SHIFT/DEPARTMENT

SUPERVISOR COMMENTS:

*The Stiles Law Library has not received a request from Donder Fair asking for indigent supplies. Offender Fair can submit an I-302 on I-60 requesting supplies and if Stiles is still on Lock Down Status supplies will be issued.*

PRINTED NAME

SIGNATURE

DATE

RANK/TITLE

SHIFT/DEPARTMENT

*See attached Indigent Supply Issue Screens you*

Exhibit 1

101



CSPSTP01 .

T.D.C.J. - INSTITUTIONAL DIVISION

DATE: 12/06/19

1JUK

## INDIGENT SUPPLIES ISSUE

TIME: 13:43:24

TDC NUM: 00700474

NAME: FAIN, ROGER

HOUSING: ST 4D32

CELL: 60

ID STAT: A

PERSONAL.

RESTRICTED:

LEGAL

INDIGENT: NO

TOTAL

PAPER

## CARBON

BSN ENV

WRT ENV

PENS

STAMPS

OTHER STAMPS

REG ISS

REG ISS

REO ISS

REO ISS

RO IS

55 15 90 100 05

\$ ONT

\$ QNT

PER

LEG

A K P AI PAPER CARB BUSN WRIT PEN STAMPS SPECIALS TRANS

DATE	D C L X D R O	I S R O I S R O I S R O I S R I	55	15	90	100	05	O N T \$	O N T \$	TOTAL
------	---------------	---------------------------------	----	----	----	-----	----	----------	----------	-------

[illegible][illegible][illegible]

120989	A	K	I	V	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0.10
120990	A	K	I	U	0	0	0	0	5	0	2	0	1	0	0	0	0	0	0	0	0.00

120309	A	R	E	0	0	0	0	0	0	2	0	1	0	0	0	0	0	0	0	0	0.00
071700	A	K	B	A	0	0	0	0	0	0	0	0	0	20	2	0	0	0	0	0	0.14

[illegible][illegible][illegible][illegible]

\*\*==>> WARNING <<==\*\* OFFENDER MAY HAVE NEGATIVE MAIL

OR KEY IN NUMBER



CSPSTP04  
TERM: 1JUK

T.D.C.J. - INSTITUTIONAL DIVISION  
INDIGENT SUPPLIES ISSUE

DATE: 12/06/19  
TIME: 13:37:13

NUMBER: 00700474 NAME: FAIN, ROGER

UNIT: STILES

DATE	A	K	P	AI	PAPER	CARB	BUSN	WRIT	PEN	STAMPS	SPECIALS	TRANS										
	D	C	L	XD	RQ	IS	RQ	IS	RQ	IS	R	I	55	15	90	00	05	QNT	\$	QNT	\$	TOTAL
122309	A	K	P	U	0	0	0	0	0	0	0	0	3	0	0	0	0	0	0	0	0	1.32
122309	A	K	L	U	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0.00
120309	A	K	P	U	0	0	0	0	5	5	0	0	0	0	0	0	0	0	0	0	0	0.10
120309	A	K	L	U	0	0	0	0	5	0	2	0	1	0	0	0	0	0	0	0	0	0.00
071709	A	K	P	A	0	0	0	0	0	0	0	0	0	20	2	0	0	0	0	0	0	9.14
071709	A	K	L	A	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0.00
110108	A	K	P	A	0	0	0	0	0	0	0	0	0	21	0	0	0	0	0	0	0	8.82
110108	A	K	L	A	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0.00
050206	A	K	P	A	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0.00
050206	A	K	L	A	0	0	0	0	0	0	2	2	0	0	0	0	0	0	0	0	0	0.08
011206	A	K	P	A	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0.00
011206	A	K	L	A	0	0	0	0	0	0	3	3	0	0	0	0	0	0	0	0	0	0.12
011106	A	K	P	A	0	0	0	0	0	0	0	0	0	99	0	0	0	0	0	0	0	36.63
011106	A	K	L	A	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0.00
082305	A	K	P	A	0	0	0	0	5	5	0	0	0	0	0	0	0	0	0	0	0	0.05
082305	A	K	L	A	0	0	0	0	15	15	0	0	0	0	0	0	0	0	0	0	0	0.15

ENTER NEXT NUMBER 00700474  
OR SID \_\_\_\_\_

PF4 - 1ST SCREEN

PF8 - MORE RECORDS

PF9 - PRINT  
PA1 - MENU



**GRIEVANCE INVESTIGATION WORKSHEET***Restricted & Confidential*

<b>GRIEVANCE OFFICE USE ONLY</b>			<b>STEP 2</b>	
Unit: ATC CGI: Keisha Green		Date Initiated: 01/22/20		Date Completed: 1/29/2020
Offender Name: Fain, Roger		TDCJ No: 700474		Housing: ST
Grievance No: 2020042352		Code: 703		Date Due: 02/19/20
<b>EMERGENCY</b>	<b>USE OF FORCE</b>	<b>DISCIPLINARY ISSUE</b>	<b>PROPERTY</b>	<input type="checkbox"/> <b>ADA</b>
YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	MAJOR <input type="checkbox"/> MINOR <input type="checkbox"/> UR <input type="checkbox"/>	MAJOR <input type="checkbox"/> MINOR <input type="checkbox"/>	<b>RELIGION</b>	<input type="checkbox"/> <b>SSI</b>
UOF #		#	<b>MEDICAL</b>	<input type="checkbox"/>
<p><b>Summary of Issue:</b> (Include date, time location.) NOTE: For claims of Excessive/Unreported UOF, or Harassment/Retaliation for use of the Grievance Procedure or Access to Courts rights, other legal activities, the investigation must be conducted by Internal Affairs. Complete the Fact Sheet for I.A.D. Investigations.</p> <p>Offender claims that on 11/12/19 the unit went on lockdown and on this date, he submitted a request for case citings. On 11/21/19 he did receive the cases. Claims he resubmitted those for other cases citings and Mr. Simon picked up the cases that he received on 11/21/19. He was told then that he would receive his next request on the following day of Monday, 11/25/19. States Monday came and he did not get cases. On Tuesday Mr. Simon passed out legal work on 4D sections 1,2 and 3, and he didn't receive his requested cases.</p> <p><b>Requested Remedy:</b></p> <p>Law Library comply with the TDCJ-CID policies concerning Access to Courts, and for me to be free of any Administrative retaliation for grieving this matter.</p>				
<p>The following is to be completed by the investigating official. The investigating official must sign the bottom. (Attached Statement/Supporting Documentation is applicable.)</p> <p><b>Summary of Fact Finding Activity:</b></p> <ol style="list-style-type: none"> <li>1. Step 1 grievance was noted</li> <li>2. Statement dated 12/06/19 from L. Jones: The Stiles law library has not received a request from offender Fain asking for Indigent Supplies. Offender Fain can submit an I-302 or I-60 requesting supplies and if Stiles is still on lockdown status supplies will be issued.</li> <li>3. Telephone conversation on 01/29/2020 with L. Jones, Law Library Supervisor informing her that the offender was not grieving supplies. His complaint was about not receiving legal research material.</li> <li>4. ATC-080; BP-03.81</li> <li>5. R- 5.02</li> </ol>				
<p><b>Suggested Response to Offender:</b></p> <p>Your step 1 complaint has been noted. The delivery of legal research material to offenders with indirect access to the law library will be conducted, in accordance with ATC-080. No further action is warranted.</p>				
Completed By:		Signature: <i>Keisha Green</i>		Date: 1/29/2020
		Printed Name: Keisha Green		Title: Reg. Supervisor





**Texas Department of Criminal Justice**  
**STEP 2**  
**OFFENDER**  
**GRIEVANCE FORM**

**Offender Name:** Roger Fain **TDCJ #** 00700474  
**Unit:** Wm-G-McConnell **Housing Assignment:** 19 Building Y-007  
**Unit where incident occurred:** 19 Building Gym Area/ Y Dorm

OFFICE USE ONLY	
Grievance #:	<u>2018131019</u>
UGI Recd Date:	<u>AUG 01 2018</u>
HQ Recd Date:	<u>AUG 08 2018</u>
Date Due:	<u>910</u>
Grievance Code:	<u>810</u>
Investigator ID#:	<u>2197</u>
Extension Date:	<u>1020</u>

*You must attach the completed Step 1 Grievance that has been signed by the Warden for your Step 2 appeal to be accepted. You may not appeal to Step 2 with a Step 1 that has been returned unprocessed.*

**Give reason for appeal (Be Specific).** *I am dissatisfied with the response at Step 1 because...*

Once again the grievance procedure which is designed to allow Offenders to bring a claim of misconduct, or other so called infractions forth to have the Offending Officer looked at, and possibly taken to account for the infraction.

My grievance was against a ranking Officer who violated numerous TDCJ & TDCJ-CID Policy, Rules and Procedures. I cited those infractions, and I have in fact in the past grieved this same ranking Officer for the same infractions, again to no avail.

The grievance system and process on the McConnell Unit fails the Offender population because it rarely finds in the Offender's favor. Case in point, an Offender states a claim against the Officer, and the grievance investigator goes to that Officer and asks: "Did this happen??"

the Officer's reply would naturally be: "Absolutely not, I would never violate TDC Rules."

Grievance is then and there done with, resolved in favor of the Offender, once again. The claim I brought forth has been brought forth by other similar situated Offenders and at no time does the investigator reference that fact in making their determination for the Warden's Response/Signature.

This grievance is just a formality, necessary to pursue this matter into the Courts. The ranking Officer is a continuing threat to the security of this Unit and those who are being held here.



Offender Signature:

*Ryan Fair #200474*

Date: July 31st 2018

Grievance Response:

Your complaint has been noted and was appropriately addressed at step one. You failed to provide names of witnesses or any evidence to collaborate your allegations. No further action warranted.

K. Galtan, Assistant Regional Director

Signature Authority:

*K. Galtan*

Date:

*10/18/2018*Returned because: *\*Resubmit this form when corrections are made.*

- ☐ 1. Grievable time period has expired.
- ☐ 2. Illegible/Incomprehensible.\*
- ☐ 3. Originals not submitted.\*
- ☐ 4. Inappropriate/Excessive attachments.\*
- ☐ 5. Malicious use of vulgar, indecent, or physically threatening language.
- ☐ 6. Inappropriate.\*

CGO Staff Signature: \_\_\_\_\_

**OFFICE USE ONLY****Initial Submission**

CGO Initials: \_\_\_\_\_

Date UGI Recd: \_\_\_\_\_

Date CGO Recd: \_\_\_\_\_

(check one) ☐ Screened ☐ Improperly Submitted

Comments: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

**2<sup>nd</sup> Submission**

CGO Initials: \_\_\_\_\_

Date UGI Recd: \_\_\_\_\_

Date CGO Recd: \_\_\_\_\_

(check one) ☐ Screened ☐ Improperly Submitted

Comments: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

**3<sup>rd</sup> Submission**

CGO Initials: \_\_\_\_\_

Date UGI Recd: \_\_\_\_\_

Date CGO Recd: \_\_\_\_\_

(check one) ☐ Screened ☐ Improperly Submitted

Comments: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

Exhibit 1

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## Texas Department of Criminal Justice

# STEP 1 OFFENDER GRIEVANCE FORM

OFFICE USE ONLY

Grievance #: 2018131019  
 Date Received: 5.10.18  
 Date Due: 6.19.18  
 Grievance Code: 810  
 Investigator ID #: 1950  
 Extension Date: 07/29/18  
 Date Retd to Offender: JUL 30 2018

Offender Name: Roger Fain TDCJ # 00700474  
 Unit: McConnell Housing Assignment: 19 Y-007  
 Unit where incident occurred: 19 Building, Y Dorm/18 Building Gym

You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? Lt. Garcia was the only ranking officer When? May 8th 2018  
 What was their response? There was no response since she was the sole acting ranking officer  
 What action was taken? Told to live with it, and deal with it

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate

On May 8th 2018, approxiamtely 11:30 am, Lt. Garcia came into Y-Dorm and told all of us to pack it up, and she stated that we were required to make the move into the gym with all of our property in one move. I told Lt. Garcia that I have medical restrictions that prohibits me from lifting more than 10 pounds. She told me that she didn't give a s--t about my restrictions, that she had contacted the medical department and that they instructed her that any and all restric-  
were for "Work related only" and did not manner outside of the work place.

I stacked up my property, and she then instructed me to "drag" my property, unbagged, and loose on my sheet. This action not only damaged the sheet beyond repair, some of my property was also damaged. (I still have the sheet, and I will hold it until this matter is resolved. The wanton destruction of State property by a ranking officer and/or official is in violation of TDC Policies, Procedures and Rules).

During the shakedown procedure, Lt. Garcia violated the following Guidelines of Employees. PD-22 #7, Substandard Duty Performance; PD-22 #14, Use Of Profane & Vulgar/Abusive Language; PD-22 #23, Mistreatment Of Offenders; PD-22 #29, Damage, Destruction Of Property Owned or Leased By TDCJ; PD-22 #37, Misconduct.

I have raised the issue of PD-22 #37, Misconduct - An employee is prohibited from engaging in any activity that would have an adverse impact upon the integrity or productivity of the employee or the Agency. In this case Lt. Garcia's actions were harmful, setting a bad example to the employees, quite a few new within a matter of months, that Profane, Vulgar language and/or treatment was permissible in the way an Offender was treated during a shakedown, or at any other time. Her actions, if not audio, visual was captured on the cameras in 19 gym, rec yard, and 18 gym.



Action Requested to resolve your Complaint.

I would like this matter seriously investigated, and the appropriate action taken. Furthermore I do not wish to be threatened, retaliated on or otherwise hassled for bringing forth this matter.

Offender Signature: Rogan Fair 700474 Date: May 9th 2018

Grievance Response:

Your complaint has been reviewed. Investigation revealed no evidence to substantiate your allegation of staff use of profanity or of any staff misconduct. No further action is warranted by this office.

Signature Authority: [Signature]

Warden D. Fernandez

Date: JUL 27 2018

If you are dissatisfied with the Step 1 response, you may submit a Step 2 (I-128) to the Unit Grievance Investigator within 15 days from the date of the Step 1 response. State the reason for appeal on the Step 2 Form.

Returned because: \*Resubmit this form when the corrections are made.

- ☐ 1. Grievable time period has expired.
- ☐ 2. Submission in excess of 1 every 7 days. \*
- ☐ 3. Originals not submitted. \*
- ☐ 4. Inappropriate/Excessive attachments. \*
- ☐ 5. No documented attempt at informal resolution. \*
- ☐ 6. No requested relief is stated. \*
- ☐ 7. Malicious use of vulgar, indecent, or physically threatening language. \*
- ☐ 8. The issue presented is not grievable.
- ☐ 9. Redundant. Refer to grievance # \_\_\_\_\_
- ☐ 10. Illegible/Incomprehensible. \*
- ☐ 11. Inappropriate. \*

UGI Printed Name/Signature: \_\_\_\_\_

Application of the screening criteria for this grievance is not expected to adversely affect the offender's health.

Medical Signature Authority: \_\_\_\_\_

I-127 Back (Revised 11-2010)

Exhibit 1

### OFFICE USE ONLY

Initial Submission UGI Initials: \_\_\_\_\_

Grievance #: \_\_\_\_\_

Screening Criteria Used: \_\_\_\_\_

Date Recd from Offender: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

2<sup>nd</sup> Submission UGI Initials: \_\_\_\_\_

Grievance #: \_\_\_\_\_

Screening Criteria Used: \_\_\_\_\_

Date Recd from Offender: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

3<sup>rd</sup> Submission UGI Initials: \_\_\_\_\_

Grievance #: \_\_\_\_\_

Screening Criteria Used: \_\_\_\_\_

Date Recd from Offender: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

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Appendix F



**TEXAS  
DEPARTMENT OF CRIMINAL  
JUSTICE**

**OFFENDER GRIEVANCE PROGRAM**

**NOTICE**

All documentation that follows this sheet is restricted and confidential and is not to be released without the authorization of the administrator of offender grievances.

**RESTRICTED  
AND  
CONFIDENTIAL**



## GRIEVANCE INVESTIGATION WORKSHEET

Restricted &amp; Confidential

GRIEVANCE OFFICE USE  
ONLY

STEP 1 X

STEP 2

Unit: ML Investigator ID: I 1950 Date Initiated: 05/10/18 Date Completed: 07/27/18 Date Due: 06/19/18  
 Offender Name: Fain, Roger TDCJ No: 00700474 Grievance Number: 2018131019

Issue Code:	EMERGENCY	ADA ( )	Property ( )	Use of Force (UOF) ( )
810	YES ( )	Disciplinary ( )	Religion ( )	Harassment or Retaliation* ( )
	NO (X)	Medical ( )	OPI Investigation ( )	PREA ( )

\*Harassment or Retaliation of Use of the Grievance Procedures, Access to Courts, or other Legal Activity

Note: Offenders are not allowed to review the grievance investigation worksheet at any time. For claims of sexual abuse, sexual assault, criminal acts by staff, Excessive or Unreported UOF, the investigation must be conducted by the Office of Inspector General (OIG) and the OIG Fact Sheet completed.

## Summary of Issue: (Include date, time and location):

See Attached Narrative

## Requested Remedy:

I would like this matter seriously investigated and the appropriate action taken. Furthermore i do not wish to be threatened, retaliated on or otherwise hassled for bringing forth this matter.

The following is to be completed and signed by the Investigating Official. Attach statements/supporting documentation, if applicable.

## Summary of Fact Finding Activity:

Statement - Lt. Garcia 1B/GP

## Suggested Response to Offender:

Your complaint has been reviewed. Investigation revealed no evidence to substantiate your allegation of staff use of profanity or of any staff misconduct. No further action is warranted by this office.

OUTCOME CODE: D RESOLUTION CODE: 2.0

Investigating official completes the section below:

Printed Name: J. GarciaSignature: Title: Investigator IIIDate: 07/27/18

This grievance is being processed in an effort to resolve a problem through the established procedures identified in BP-03.77 and AD-0302. It is expressly prohibited to subject the grievant, other offenders, or staff to any form of reprisal for the use of these procedures.

Exhibit 1

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## GRIEVANCE INVESTIGATION WORKSHEET

PAST DUE

## Official Statement

Unit: ML Staff Name: Lt. Garcia 1B/GP Grievance #: 2018131019 Date: 05/10/18  
 Offender Name: Fain, Roger TDCJ#: 00700474 Housing Location: 19Y-007

In accordance with BP 03 77, you are required to participate in this investigation as noted. Address each allegation thoroughly. Do not respond with indefinite answers such as "I don't know" or "I have no knowledge of". If you have no knowledge, explain the reason why. (e.g., I was on vacation; I was not assigned there, etc.) Your answers are to be factual, professional, and complete. Do not include opinions or unrelated comments. Remember, the Executive Director, Office of the Inspector General (OIG), Attorney General's Office and State and Federal Court Officials may review your response. All grievances are confidential and may not be discussed between you and the offender or with other individuals. You are expected to return this investigation within 10 working days of receipt. Additional time may be requested by contacting the grievance investigator. Sign and date the form in the designated locations when completed and return it to the Unit Grievance Office. If you were provided a narrative copy of the grievance, it must also be returned to the Unit Grievance Office. The grievance may not be duplicated or shared with the accused staff member.

## Please Provide the Following Documents

- |  |   |
|--|---|
| <input type="checkbox"/> Participant(s) Statement                    | <input type="checkbox"/> Other                                      |
| <input type="checkbox"/> Witness(es) Statement (signed)              | <input type="checkbox"/> Staff or Offender Protection Investigation |
| <input type="checkbox"/> Activity Logs (Recreation, Shower, Feeding) | <input type="checkbox"/> Property Inventory Forms                   |
| <input type="checkbox"/> Shift Roster                                | <input type="checkbox"/> Property Logs                              |
| <input type="checkbox"/> Ingress/Egress Log                          |   |
| <input type="checkbox"/> Property Confiscation Form                  |   |

## ALLEGATIONS:

Please see attached and address all allegations.

EMPLOYEE STATEMENT: At no time did I tell the offender that I didn't care about medical restrictions and offender with lifting / medical restrictions were provided with a cart. All other offenders were instructed to remove their property in one trip however allowing them to make multiple stops/trips within the one trip to avoid offenders from walking back and forth unsupervised.

GARCIA GARCIA 7-9-18  
 PRINTED NAME SIGNATURE DATE

lt 1BGP  
 RANK/TITLE SHIFT/DEPARTMENT

SUPERVISOR COMMENTS: Lt Garcia denied using profanity and also denied showing indifference to the flightless offenders on medical restriction during the lockdown. Lt Garcia actions were consistent with AD 3.31 "look down procedure".

Nick Chikara if 05/17/18  
 PRINTED NAME SIGNATURE DATE

1BGP  
 RANK/TITLE SHIFT/DEPARTMENT



State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate

On May 8th 2018, approxiamtely 11:30 am, Lt. Garcia came into Y-Dorm and told all of us to pack it up, and she stated that we were required to make the move into the gym with all of our property in one move. I told Lt. Garcia that I have medical restrictions that prohibits me from lifting more than 10 pounds. She told me that she didn't give a s--t about my restrictions, that she had contacted the medical department and that they instructed her that any and all restrictions were for "Work related only" and did not manner outside of the work place.

I stacked up my property, and she then instructed me to "drag" my property, unbagged, and loose on my sheet. This action not only damaged the sheet beyond repair, some of my property was also damaged. (I still have the sheet, and I will hold it until this matter is resolved. The wanton destruction of State property by a ranking officer and/or official is in violation of TDC Policies, Procedures and Rules).

During the shakedown procedure, Lt. Garcia violated the following Guidelines of Employees. PD-22 #7, Substandard Duty Performance; PD-22 #14, Use Of Profane & Vulgar/Abusive Language; PD-22 #23, Mistreatment Of Offenders; PD-22 #29, Damage, Destruction Of Property Owned or Leased By TDCJ; PD-22 #37, Misconduct.

I have raised the issue of PD-22 #37, Misconduct - An employee is prohibited from engaging in any activity that would have an adverse impact upon the integrity or productivity of the employee or the Agency. In this case Lt. Garcia's actions were harmful, setting a bad example to the employees, quite a few new within a matter of months, that Profane, Vulgar language and/or treatment was permissible in the way an Offender was treated during a shakedown, or at any other time. Her actions, if not audio, visual was captured on the cameras in 19 gym, rec yard, and 18 gym.

I-127 Front (Revised 11-2010)

YOUR SIGNATURE IS REQUIRED ON BACK OF THIS FORM

(OVER)

Appendix F



Step 1	<input checked="" type="checkbox"/>	Grievance #	Offender Name	TDCJ #	Unit
Step 2	<input type="checkbox"/>	2018131019	FAIN, ROGER	700474	ML



## Texas Department of Criminal Justice

### NOTICE OF EXTENSION

#### Offender Grievance Office

In accordance with the procedures outlined in BP-03.77, "Offender Grievances," and AD-03.82, "Management of Offender Grievances," you are hereby notified that additional time is necessary to complete the investigation of your:

**Step 1 Grievance:** (check the applicable box)

- ☐ An additional 30 days is needed for appropriate response to your disciplinary appeal.
- ☒ An additional 40 days is needed for appropriate response to your grievance.
- ☐ An additional 45 days is needed for appropriate response to your medical Step 1 grievance.

**Step 2 Grievance:** (check the applicable box)

- ☐ An additional 30 days is needed for appropriate response to your disciplinary appeal.
- ☐ An additional 40 days is needed for appropriate response to your Step 2 grievance.
- ☐ An additional 45 days is needed for appropriate response to your medical Step 2 grievance.

J. Garcia, Investigator III

Name and Title

06/19/18

Date

Original – Send to the Offender

Copy – Attach to the Grievance



Step 1		Grievance #	Offender Name	TDCJ #	Unit
Step 2	X	2018131019	FAIN, ROGER	700474	ML



Texas Department of Criminal Justice  
**NOTICE OF EXTENSION**  
Offender Grievance Office

In accordance with the procedures outlined in BP-03.77, "Offender Grievances," and AD-03.82, "Management of Offender Grievances," you are hereby notified that additional time is necessary to complete the investigation of your:

**Step 1 Grievance:** *(check the applicable box)*

- ☐ An additional 30 days is needed for appropriate response to your disciplinary appeal.
- ☐ An additional 40 days is needed for appropriate response to your grievance.
- ☐ An additional 45 days is needed for appropriate response to your medical Step 1 grievance.

**Step 2 Grievance:** *(check the applicable box)*

- ☐ An additional 30 days is needed for appropriate response to your disciplinary appeal.
- ☒ An additional 40 days is needed for appropriate response to your Step 2 grievance.
- ☐ An additional 45 days is needed for appropriate response to your medical Step 2 grievance.

L. PELITIRE, REGION IV INVESTIGATOR  
Name/Title

09/04/2018  
Date

Original – Send to the Offender  
Copy – Attach to the Grievance



Step 1		Grievance #	Offender Name	TDCJ #	Unit
Step 2	X	2018131019	FAIN, ROGER	700474	ML



Texas Department of Criminal Justice  
**NOTICE OF EXTENSION**  
Offender Grievance Office

In accordance with the procedures outlined in BP-03.77, "Offender Grievances," and AD-03.82, "Management of Offender Grievances," you are hereby notified that additional time is necessary to complete the investigation of your:

**Step 1 Grievance:** *(check the applicable box)*

- ☐ An additional 30 days is needed for appropriate response to your disciplinary appeal.
- ☐ An additional 40 days is needed for appropriate response to your grievance.
- ☐ An additional 45 days is needed for appropriate response to your medical Step 1 grievance.

**Step 2 Grievance:** *(check the applicable box)*

- ☐ An additional 30 days is needed for appropriate response to your disciplinary appeal.
- ☒ An additional 40 days is needed for appropriate response to your Step 2 grievance.
- ☐ An additional 45 days is needed for appropriate response to your medical Step 2 grievance.

L. PELITIRE, REGION IV INVESTIGATOR  
Name/Title

09/04/2018  
Date

Original – Send to the Offender  
Copy – Attach to the Grievance



## GRIEVANCE INVESTIGATION WORKSHEET

Restricted &amp; Confidential

GRIEVANCE OFFICE USE ONLY								STEP 1			
								STEP 2 X			
Unit	R4	INV ID:	I2197	GR #	2018131019	Date Initiated:	10/15/18	Date Completed:	10/15/18	Due Date	10/20/2018
Offender Name: FAIN, ROGER						TDCJ No:	700474	Housing:	ML		
Issue Code:		EMERGENCY		ADA	( )	Property	( )	Use of Force (UOF)	( )		
810	YES	( )	Disciplinary	( )	Religion	( )	Harassment or Retaliation*	( )			
	NO	(X)	Medical	( )	OPI Investigation	( )	PREA	( )			

\*Harassment or Retaliation of Use of the Grievance Procedure, Access to Courts, or other Legal Activity

Note: Offenders are not allowed to review the grievance investigation worksheet at any time. For claims of sexual abuse, sexual assault, criminal acts by staff, Excessive or Unreported UOF, the investigation must be conducted by the Office of Inspector General (OIG) and the OIG Fact Sheet completed.

## Summary of Issue: (Include date, time and location):

Offender is claiming that Lt. Garcia advised them to pack up their belongings and go to the gym. Offender claims that he advised Lt. that he was on restrictions and that Lt. Garcia told him that she didn't give a shit about his restrictions and that it only applied to work. Offender claims that he should not be lifting more than 10 pounds. Offender claims he did what he was instructed and dragged his property in his sheet which was damaged. Offender claims that Lt. Garcia violated PD22.

## Requested Remedy:

I would like this matter investigated and appropriate action taken. Furthermore, I do not wish to be threatened, retaliated on or otherwise hassled for bringing forth this matter.

The following is to be completed and signed by the Investigating Official. Attach statements/supporting documentation, if applicable.

## Summary of Fact Finding Activity:

Lt. Garcia statement

## Suggested Response to Offender:

Your complaint has been noted and was appropriately addressed at step one. You failed to provide names of witnesses or any evidence to collaborate your allegations. No further action warranted.

OUTCOME CODE:	D	RESOLUTION CODE:	2.02	(Grievance Office Use Only)
---------------	---	------------------	------	-----------------------------

Investigating official completes the section below:

Printed Name:	Lisa Pelitire	Signature:	
Title:	AA IV	Date:	October 15, 2018

This grievance is being processed in an effort to resolve a problem through the established procedures identified in RP-03.77 and AD-0382. It is expressly prohibited to subject the grievant, other offenders, or staff to any form of reprisal for the use of these procedures.



AFFIDAVIT

THE STATE OF TEXAS §

COUNTY OF WALKER §


BEFORE ME, the undersigned authority, on this day personally appeared Jessica Riley, who, being by me duly sworn, deposed as follows:

My name is Jessica Riley and I am an employee of the Texas Department of Criminal Justice (TDCJ), a governmental agency. I am over 21 years of age, of sound mind, capable of making this affidavit, and personally acquainted with the facts herein stated.

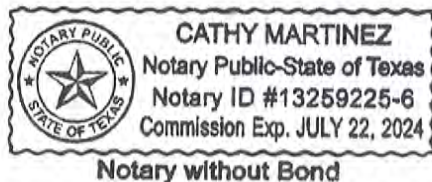
I am the custodian of records for the Inmate Grievance Department, a part of the TDCJ located in Huntsville, Texas. Attached are true and correct copies of *the grievance records for Inmate Fain, Roger E., TDCJ #700474, CN#5.20-CV-001149, for the time period of 1/1/2016 to 12/12/2020*, which are kept by the TDCJ in the regular course of its business activity. The entries of such records were made as a regularly conducted activity and a regular practice of the TDCJ, and were made at or near the time of the occurrence of the matters set forth by, or from information transmitted by, a person with knowledge of those matters.

I declare under penalty of perjury that the foregoing is true and correct.

"Further Affiant sayeth not."

  
\_\_\_\_\_  
Jessica Riley  
Manager II  
Offender Grievance, ARRM  
Texas Department of Criminal Justice

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned notary public, on the 14th day of DECEMBER, 2020.



  
\_\_\_\_\_  
NOTARY PUBLIC, STATE OF TEXAS

Cathy Martinez  
Notary's Printed Name

My Commission Expires:  
July 22, 2024





**Texas Department of Criminal Justice**  
**STEP 2** **OFFENDER**  
**GRIEVANCE FORM**

**OFFICE USE ONLY**

Grievance #: 2018081586  
 UGI Recd Date: APR 27 2018  
 HQ Recd Date: MAY 02 2018  
 Date Due: 6/4  
 Grievance Code: 500  
 Investigator ID#: 2197  
 Extension Date: 7-16

Offender Name: Roger Fain TDCJ # 00700474  
 Unit: McConnell Unit Housing Assignment: 19 Building Y-007  
 Unit where incident occurred: McConnell Unit - A-Turnout

*You must attach the completed Step 1 Grievance that has been signed by the Warden for your Step 2 appeal to be accepted. You may not appeal to Step 2 with a Step 1 that has been returned unprocessed.*

**Give reason for appeal (Be Specific).** I am dissatisfied with the response at Step 1 because...

The Assistant Wardens response leaves alot to be desired. It does not address the issue of what the Step-1 stated and that was as a working I was fed exactly the same thing as those who do not work, who do nothing productive on and/or for the Unit.

Warden Furr states that as a worker I am fed what he refers to as a "Modified Hot Meal" he states this is a "Policy" which none exists. What he refers to as a modified hot meal is what ever is prepared, sacked up, is what is fed to those that work just as those who don't work.

Workers are allegedly per TDCJ-CID Policy to be given hot meals, clean clothes, and showers if they work. The issue here isn't concerning the clothes or showers, but the hot meals that are quite the norm on the McConnell Unit doesn't seem to believe that those that work should be treated any differently than those that never work.

The sack meals on the McConnell Unit are not nourishing, wholesome or healthy. They at the very least allow for calorie count, but leave the Offender wanting in a proper, well balanced diet. The lack of a proper balanced diet allows for Offenders to have down the road serious medical issues such as diabetes, or other health related issues.



Offender Signature: \_\_\_\_\_

Date: April 26, 2018

Grievance Response: \_\_\_\_\_

Your complaint has been noted and appropriately addressed in Step One. All meals are prepared in accordance with Texas Government Code 501.003. This policy indicates that inmates housed in facilities operated by TDCJ are fed good and wholesome food, prepared under sanitary conditions, and provided in sufficient quantity and reasonable variety. Policy does not stipulate that hot meals must be served. All sack meals provided are in accordance with TDCJ policy and procedures and this also includes the correct caloric count for every meal served. No further action warranted.

P. Chapa, Assistant Region IV Director

Signature Authority: \_\_\_\_\_

Date: 06/13/2018

Returned because: \*Resubmit this form when corrections are made.

- ☐ 1. Grievable time period has expired.
- ☐ 2. Illegible/Incomprehensible.\*
- ☐ 3. Originals not submitted.\*
- ☐ 4. Inappropriate/Excessive attachments.\*
- ☐ 5. Malicious use of vulgar, indecent, or physically threatening language.
- ☐ 6. Inappropriate.\*

CGO Staff Signature: \_\_\_\_\_

**OFFICE USE ONLY****Initial Submission**

CGO Initials: \_\_\_\_\_

Date UGI Recd: \_\_\_\_\_

Date CGO Recd: \_\_\_\_\_

(check one) ☐ Screened ☐ Improperly Submitted

Comments: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

**2<sup>nd</sup> Submission** CGO Initials: \_\_\_\_\_

Date UGI Recd: \_\_\_\_\_

Date CGO Recd: \_\_\_\_\_

(check one) ☐ Screened ☐ Improperly Submitted

Comments: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

**3<sup>rd</sup> Submission** CGO Initials: \_\_\_\_\_

Date UGI Recd: \_\_\_\_\_

Date CGO Recd: \_\_\_\_\_

(check one) ☐ Screened ☐ Improperly Submitted

Comments: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

Exhibit 1

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## Texas Department of Criminal Justice

# STEP 1 OFFENDER GRIEVANCE FORM

## OFFICE USE ONLY

Grievance #: 2018081586  
 Date Received: 2/2/2018  
 Date Due: 03/14/2018  
 Grievance Code: 500  
 Investigator ID #: I2547-1950  
 Extension Date: 04/23/18  
 Date Ret'd to Offender: APR 23 2018

Offender Name: Roger Fain TDCJ # 00700474  
 Unit: McConnell Housing Assignment: 19 Y-007  
 Unit where incident occurred: McConnell - A-Turnout

You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? Sgt. Martin was at A-Turnout When? 01-29-18

What was their response? When asked about why we're getting Johnnies, I was told to "Live with it..."

What action was taken? After working a shift, Johnnies were served to the Garment Factory workers

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate

Monday, January 29th 2018, when the P.M. Garment Factory came in they were informed that they would be given Johnnies for the last meal, I am general population, I work an assigned job yet I am treated worse than Agg-Seg offenders who are for the most part disruptive, and disciplinary problems and do not produce any type of benefits for the Unit, yet they receive hot meals unless they are being shook-down.

My understanding of TDCJ-CID Rules is that if you work, you receive a hot meal; if you work you receive a shower; and if you work you receive clean clothes. Maintenance workers receive hot meals, inside yard and other work squads receive hot meals, yet on a regular basis the Garment Factory workers receive Johnnies and are expected to fall out for work in the A.M. or after working P.M. they often receive a Johnnie.

What is also a problem is how a ranking officer addresses legitimate questions from an Offender with responses such as "Live with it..." Ranking officers are where Offenders are to turn when they cannot get a reply from a COVI, to have a ranking officer reply to a question concerning a properly submitted question with an answer that is off the wall shows a total lack of professionalism and training. Given the same response by an Offender, that Offender would be locked up, and a disciplinary case written on him.



Action Requested to resolve your Complaint.

would like to understand why Johnnies are necessary to serve when the Unit isn't locked down nor is the Unit short of staff.

Offender Signature: \_\_\_\_\_

Date: 02-02-18

Grievance Response: \_\_\_\_\_

An investigation was conducted into your complaint. Investigation reveals that administration makes daily calls to food service whether to feed hot meals or sack meals. If sack meals are called for that day, a modified hot meal is fed at lunch to all workers that are currently out working. Therefore, all working offenders are fed adequately according to policy. No further action is warranted by this office.

Signature Authority: \_\_\_\_\_

Warden C. Furr

APR 20 2018

Date: \_\_\_\_\_

If you are dissatisfied with the Step 1 response, you may submit a Step 2 (I-128) to the Unit Grievance Investigator within 15 days from the date of the Step 1 response. State the reason for appeal on the Step 2 Form.

Returned because: \*Resubmit this form when the corrections are made.

- ☐ 1. Grievable time period has expired.
- ☐ 2. Submission in excess of 1 every 7 days. \*
- ☐ 3. Originals not submitted. \*
- ☐ 4. Inappropriate/Excessive attachments. \*
- ☐ 5. No documented attempt at informal resolution. \*
- ☐ 6. No requested relief is stated. \*
- ☐ 7. Malicious use of vulgar, indecent, or physically threatening language. \*
- ☐ 8. The issue presented is not grievable
- ☐ 9. Redundant. Refer to grievance # \_\_\_\_\_
- ☐ 10. Illegible/Incomprehensible. \*
- ☐ 11. Inappropriate. \*

UGI Printed Name/Signature: \_\_\_\_\_

Application of the screening criteria for this grievance is not expected to adversely affect the offender's health

Medical Signature Authority: \_\_\_\_\_

Exhibit 1

### OFFICE USE ONLY

Initial Submission

UGI Initials: \_\_\_\_\_

Grievance #: \_\_\_\_\_

Screening Criteria Used: \_\_\_\_\_

Date Recd from Offender: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

2<sup>nd</sup> Submission

UGI Initials: \_\_\_\_\_

Grievance #: \_\_\_\_\_

Screening Criteria Used: \_\_\_\_\_

Date Recd from Offender: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

3<sup>rd</sup> Submission

UGI Initials: \_\_\_\_\_

Grievance #: \_\_\_\_\_

Screening Criteria Used: \_\_\_\_\_

Date Recd from Offender: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

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**TEXAS  
DEPARTMENT OF CRIMINAL  
JUSTICE**

**OFFENDER GRIEVANCE PROGRAM**

**NOTICE**

All documentation that follows this sheet is restricted and confidential and is not to be released without the authorization of the administrator of offender grievances.

**RESTRICTED  
AND  
CONFIDENTIAL**



## GRIEVANCE INVESTIGATION WORKSHEET

Restricted &amp; Confidential

GRIEVANCE OFFICE USE  
ONLY

STEP 1 X

STEP 2

Unit: ML Investigator ID: I 2547 Date Initiated: 02/02/18 Date Completed: 04/20/18 Date Due: 03/14/18  
 Offender Name: Fain, Roger TDCJ No: 700474 Grievance Number: 2018081586

Issue Code:	EMERGENCY	ADA	( )	Property	( )	Use of Force (UOF)	(X)
500	YES ( )	Disciplinary	( )	Religion	( )	Harassment or Retaliation*	( )
	NO (X)	Medical	( )	OPI Investigation	( )	PREA	( )

\*Harassment or Retaliation of Use of the Grievance Procedure, Access to Courts, or other Legal Activity

Note: Offenders are not allowed to review the grievance investigation worksheet at any time. For claims of sexual abuse, sexual assault, criminal acts by staff, Excessive or Unreported UOF, the investigation must be conducted by the Office of Inspector General (OIG) and the OIG Fact Sheet completed.

## Summary of Issue: (Include date, time and location):

See attached narrative.

## Requested Remedy:

Would like to understand why johnnes are necessary to serve when the nit isn't locked down nor is the unit short of staff.

The following is to be completed and signed by the Investigating Official. Attach statements/supporting documentation, if applicable.

## Summary of Fact Finding Activity:

Sent to:  
Food Service

## Suggested Response to Offender:

An investigation was conducted into your complaint. Investigation reveals that administration makes daily calls to food service whether to feed hot meals or sack meals. If sack meals are called for that day, a modified hot meal is fed at lunch to all workers that are currently out working. Therefore, all working offenders are fed adequately according to policy. No further action is warranted by this office.

OUTCOME CODE: D RESOLUTION CODE: 2.01

Investigating official completes the section below:

Printed Name: V. GarciaSignature: Title: Investigator IIDate: 04/20/18

This grievance is being processed in an effort to resolve a problem through the established procedure. Exhibit 1 123  
 form of reprisal for the use of these procedures.



Step 1	<input checked="" type="checkbox"/>	Grievance #	Offender Name	TDCJ #	Unit
Step 2	<input type="checkbox"/>	2018081586	FAIN, ROGER	700474	ML



## Texas Department of Criminal Justice

### NOTICE OF EXTENSION

#### Offender Grievance Office

In accordance with the procedures outlined in BP-03.77, "Offender Grievances," and AD-03.82, "Management of Offender Grievances," you are hereby notified that additional time is necessary to complete the investigation of your:

**Step 1 Grievance:** (check the applicable box)

- ☐ An additional 30 days is needed for appropriate response to your disciplinary appeal.
- ☒ An additional 40 days is needed for appropriate response to your grievance.
- ☐ An additional 45 days is needed for appropriate response to your medical Step 1 grievance.

**Step 2 Grievance:** (check the applicable box)

- ☐ An additional 30 days is needed for appropriate response to your disciplinary appeal.
- ☐ An additional 40 days is needed for appropriate response to your Step 2 grievance.
- ☐ An additional 45 days is needed for appropriate response to your medical Step 2 grievance.

J. Garcia, Investigator III

Name and Title

03/14/18

Date

Original – Send to the Offender

Copy – Attach to the Grievance

Exhibit 1

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## GRIEVANCE INVESTIGATION WORKSHEET

## 2nd Notice

## Official Statement

Unit: ML Staff Name: Food Service Grievance #: 2018081586 Date: 02/02/18  
 Offender Name: Fain, Roger TDCJ#: 700474 Housing Location: 19Y-007

In accordance with BP 03.77, you are required to participate in this investigation as noted. Address each allegation thoroughly. Do not respond with indefinite answers such as "I don't know" or "I have no knowledge of". If you have no knowledge, explain the reason why. (e.g., I was on vacation; I was not assigned there, etc.) Your answers are to be factual, professional, and complete. Do not include opinions or unrelated comments. Remember, the Executive Director, Office of the Inspector General (OIG), Attorney General's Office and State and Federal Court Officials may review your response. All grievances are confidential and may not be discussed between you and the offender or with other individuals. You are expected to return this investigation within 10 working days of receipt. Additional time may be requested by contacting the grievance investigator. Sign and date the form in the designated locations when completed and return it to the Unit Grievance Office. If you were provided a narrative copy of the grievance, it must also be returned to the Unit Grievance Office. The grievance may not be duplicated or shared with the accused staff member.

Please Provide the Following Documents

- |                          |   |  |
|--------------------------|---|--|
| <input type="checkbox"/> | Participant(s) Statement                    |  |
| <input type="checkbox"/> | Witness (es) Statement (signed)             |  |
| <input type="checkbox"/> | Activity Logs (Recreation, Shower, Feeding) | <input type="checkbox"/> Other   |
| <input type="checkbox"/> | Shift Roster                                | <input checked="" type="checkbox"/> Staff or Offender Protection Investigation |
| <input type="checkbox"/> | Ingress/Egress Log                          | <input type="checkbox"/> Property Inventory Forms                              |
| <input type="checkbox"/> | Property Confiscation Form                  | <input type="checkbox"/> Property Logs   |

## ALLEGATIONS:

See attached narrative.

## EMPLOYEE STATEMENT:

PRINTED NAME

SIGNATURE

DATE

RANK/TITLE

SHIFT/DEPARTMENT

## SUPERVISOR COMMENTS:

*Administration make calls daily on hot meals or sackmeals. Barry said if sackmeals are called for they do feed a hot lunch to all workers that are currently out working. Barry they will have a modify meal to provide a hot meal for workers so they are provided hot meals at lunch.*

PRINTED NAME

SIGNATURE

DATE

RANK/TITLE

SHIFT/DEPARTMENT

Exhibit 1

125



You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? Sgt. Martin was at A-Turnout

When? 01-29-18

What was their response? When asked about why we're getting Johnnies, I was told to "Live with it..."

What action was taken? After working a shift, Johnnies were served to the Garment Factory workers

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate  
Monday, January 29th 2018, when the P.M. Garment Factory came in they were informed that

they would be given Johnnies for the last meal. I am general population, I work an assigned job yet I am treated worse than Agg-Seg offenders who are for the most part disruptive, and disciplinary problems and do not produce any type of benefits for the Unit, yet they receive hot meals unless they are being shock-down.

My understanding of TDCJ-CID Rules is that if you work, you receive a hot meal; if you work you receive a shower; and if you work you receive clean clothes. Maintenance workers receive hot meals, inside yard and other work squads receive hot meals, yet on a regular basis the Garment Factory workers receive Johnnies and are expected to fall out for work in the A.M. or after working P.M. they often receive a Johnnie.

What is also a problem is how a ranking officer addresses legitimate questions from an Offender with responses such as "Live with it..." Ranking officers are where Offenders are to turn when they cannot get a reply from a COVI, to have a ranking officer reply to a question concerning a properly submitted question with an answer that is off the wall shows a total lack of professionalism and training. Given the same response by an Offender, that Offender would be locked up, and a disciplinary case written on him.



Step 1		Grievance #	Offender Name	TDCJ #	Unit
Step 2	X	2018081586	FAIN, ROGER	700474	ML



Texas Department of Criminal Justice  
**NOTICE OF EXTENSION**  
Offender Grievance Office

In accordance with the procedures outlined in BP-03.77, "Offender Grievances," and AD-03.82, "Management of Offender Grievances," you are hereby notified that additional time is necessary to complete the investigation of your:

**Step 1 Grievance:** *(check the applicable box)*

- ☐ An additional 30 days is needed for appropriate response to your disciplinary appeal.
- ☐ An additional 40 days is needed for appropriate response to your grievance.
- ☐ An additional 45 days is needed for appropriate response to your medical Step 1 grievance.

**Step 2 Grievance:** *(check the applicable box)*

- ☐ An additional 30 days is needed for appropriate response to your disciplinary appeal.
- ☒ An additional 40 days is needed for appropriate response to your Step 2 grievance.
- ☐ An additional 45 days is needed for appropriate response to your medical Step 2 grievance.

L. PELITIRE, REGION IV INVESTIGATOR

Name/Title

06/06/2018

Date

Original – Send to the Offender  
Copy – Attach to the Grievance



Step 1		Grievance #	Offender Name	TDCJ #	Unit
Step 2	X	2018081586	FAIN, ROGER	700474	ML



Texas Department of Criminal Justice  
**NOTICE OF EXTENSION**  
Offender Grievance Office

In accordance with the procedures outlined in BP-03.77, "Offender Grievances," and AD-03.82, "Management of Offender Grievances," you are hereby notified that additional time is necessary to complete the investigation of your:

**Step 1 Grievance:** *(check the applicable box)*

- ☐ An additional 30 days is needed for appropriate response to your disciplinary appeal.
- ☐ An additional 40 days is needed for appropriate response to your grievance.
- ☐ An additional 45 days is needed for appropriate response to your medical Step 1 grievance.

**Step 2 Grievance:** *(check the applicable box)*

- ☐ An additional 30 days is needed for appropriate response to your disciplinary appeal.
- ☒ An additional 40 days is needed for appropriate response to your Step 2 grievance.
- ☐ An additional 45 days is needed for appropriate response to your medical Step 2 grievance.

L. PELITIRE, REGION IV INVESTIGATOR  
Name/Title

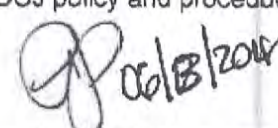
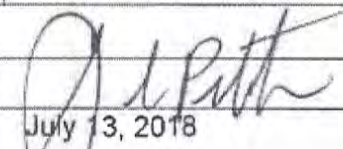
06/06/2018  
Date

Original – Send to the Offender  
Copy – Attach to the Grievance



## GRIEVANCE INVESTIGATION WORKSHEET

Restricted &amp; Confidential

GRIEVANCE OFFICE USE ONLY										STEP 1	
										STEP 2      X	
Unit	R4	INV ID:	I2197	GR #	2018081586	Date Initiated:	07/13/18	Date Completed:	07/13/18	Due Date	07/16/18
Offender Name:		FAIN, ROGER				TDCJ No:		700474	Housing:	ML	
Issue Code:		EMERGENCY		ADA	( )	Property		( )	Use of Force (UOF)		( )
500		YES	( )	Disciplinary	( )	Religion		( )	Harassment or Retaliation*		( )
		NO	(X)	Medical	( )	OPI Investigation		( )	PREA		( )
<small>*Harassment or Retaliation of Use of the Grievance Procedure, Access to Courts, or other Legal Activity</small>											
<small>Note: Offenders are not allowed to review the grievance investigation worksheet at any time. For claims of sexual abuse, sexual assault, criminal acts by staff, Excessive or Unreported UOF, the investigation must be conducted by the Office of Inspector General (OIG) and the OIG Fact Sheet completed.</small>											
<b>Summary of Issue: (Include date, time and location):</b>  Offender claims that they were advised that they would receive johnnies as their last meal and that Ad. Seg. offenders who are disruptive and disciplinary problems receive hot meals unless they are being shook down.											
<b>Requested Remedy:</b>  Would like to understand why johnnies are necessary to serve when the Unit isn't locked down nor is the Unit short of staff.											
<small>The following is to be completed and signed by the Investigating Official. Attach statements/supporting documentation, if applicable.</small>											
<b>Summary of Fact Finding Activity:</b>  Food Service statement											
<b>Suggested Response to Offender:</b>  Your complaint has been noted and appropriately addressed in Step One. All meals are prepared in accordance with Texas Government Code 501.003. This policy indicates that inmates housed in facilities operated by TDCJ are fed good and wholesome food, prepared under sanitary conditions, and provided in sufficient quantity and reasonable variety. Policy does not stipulate that hot meals must be served. All sack meals provided are in accordance with TDCJ policy and procedures and this also includes the correct caloric count for every meal served. No further action warranted. <div style="text-align: right; margin-top: 20px;">  </div>											
<b>OUTCOME CODE:</b>		<b>D</b>		<b>RESOLUTION CODE:</b>		<b>2.01</b>		<i>(Grievance Office Use Only)</i>			
Investigating official completes the section below:											
Printed Name:		L. Pelitre				Signature:					
Title:		AA IV				Date:		July 13, 2018			
<small>This grievance is being processed in an effort to resolve a problem through the established procedures identified in BP-03.77 and AD-0382. It is expressly prohibited to subject the grievant, other offenders, or staff to any form of reprisal for the use of these procedures.</small>											





Texas Department of Criminal Justice

# STEP 2

## OFFENDER GRIEVANCE FORM

Offender Name: Roger Fain ID# 00700474  
 Unit: McConnell Housing Assignment: 19 Building Y-Dorm  
 Unit where incident occurred: 19 Building Y-Dorm

OFFICE USE ONLY	
Case Number	2019025778
ECB Recd Date	DEC 20 2017
HO Recd Date	DEC 28 2017
Date Recd	1-29
Offender Code	815,899
Recd Reason ID#	
Extension Date	

*You must attach the completed Step 1 Grievance form to this form. If you do not, your grievance will be rejected. You may not appeal to Step 2 until Step 1 has been accepted.*

Give reason for appeal (Be Specific). *For grievances filed on or after 8/1/16, you must provide a written statement of the grievance.*

It is obvious that the Warden's response is just a blow-off of the issue presented to him as well as many others. When an issue is brought forth with numerous Offender's stating the same thing, not only from the same Dorm, but from others and the Grievance Investigator finds that the "Investigation Failed To Produce Substantial Evidence To Support Your Allegations..." some thing is seriously flawed with the investigation of said claim, and the investigator who fails to properly investigate the issues brought forth.

It is apparent to me that the investigator's investigation was just to ask the Officer involved in the incident grieved if the matter is true or not??? Name one Officer working for TDCJ-CID who would admit wrong doing in any type of investigation. When asked it is apparent Officer Martinez stated he did nothing wrong, that he was only doing his assigned job...

My Step-I states a number of claims that are all from the same incident, and since this Office only recognizes "One Issue Per Grievance" here is my issue I wish to put forth, the Grievance Procedure On The McConnell Unit Is A Joke, and that is the gist of my issue.



Offender Signature: \_\_\_\_\_

Date: December 16th 2017

Grievance Response: \_\_\_\_\_

Signature Authority: \_\_\_\_\_

Date: \_\_\_\_\_

Returned because: \*Resubmit this form when corrections are made.

- ☐ 1. Grievable time period has expired.  
☐ 2. Illegible/Incomprehensible.\*  
☒ 3. Originals not submitted. \* *Signature*  
☐ 4. Inappropriate/Excessive attachments.\*  
☐ 5. Malicious use of vulgar, indecent, or physically threatening language.  
☐ 6. Inappropriate.\*

CGO Staff Signature: \_\_\_\_\_

*U. Pelotie*

*[Signature]*

**OFFICE USE ONLY****Initial Submission**CGO Initials: *UP*Date UGI Recd: *12-20*Date CGO Recd: *12-28-17*(check one) ☒ Screened ☐ Improperly SubmittedComments: *\* 3* *Signature*Date Returned to Offender: *1-23-18***2<sup>nd</sup> Submission**

CGO Initials: \_\_\_\_\_

Date UGI Recd: \_\_\_\_\_

Date CGO Recd: \_\_\_\_\_

(check one) ☐ Screened ☐ Improperly Submitted

Comments: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

**3<sup>rd</sup> Submission**

CGO Initials: \_\_\_\_\_

Date UGI Recd: \_\_\_\_\_

Date CGO Recd: \_\_\_\_\_

(check one) ☐ Screened ☐ Improperly Submitted

Comments: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

**Exhibit 1****131**





## Texas Department of Criminal Justice

# STEP 1

## OFFENDER GRIEVANCE FORM

## OFFICE USE ONLY

Grievance #: 2018025778  
 Date Received: 10.18.17  
 Date Due: 11.27.17  
 Grievance Code: 815  
 Investigator ID #: 1950 2475  
 Extension Date: 1-6  
 Date Retd to Offender: DEC 15 2017

Offender Name: ROGER FAHM TDCJ # 00700474  
 Unit: McCONNELL Housing Assignment: 19 Y 007  
 Unit where incident occurred: McCONNELL, Dorm 19 Y

You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? ASKED FOR RANIK When? 10-17-17  
 What was their response? RANIK WAS NOT CALLED, IN FACT IT WAS DENIED  
 What action was taken? NONE

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate

AT APPROXIMATELY 11:25 PM, 10-17-17, OFFICER MARTINEZ, COLL BEGAN TO WAKE ALL OFFENDERS ON Y-DORM, AND STATED THAT THEY HAD TO STAND AT THE END OF THEIR CUBICLES, AND HAND HIM THEIR ID CARDS, FAILING TO DO SO, OFFICER MARTINEZ MADE AN ISSUE OUT OF IT BY HAVING ANOTHER OFFICER (NEW BOOT, NAME UNKNOWN), INDICATE THE BUNK NUMBER ON ANOTHER PIECE OF PAPER.

THE CAMERAS WILL SHOW THAT ALL OFFENDERS COMPLIED WITH WHAT APPEARS TO BE AN UNLAWFUL ORDER, BUT FAILING TO INSTANTLY COMPLY WITH OFFICER MARTINEZ'S ORDER GOT YOUR BUNK NUMBER WRITTEN DOWN, WITH THE THREAT OF A DISCIPLINARY CASE.

OFFICER MARTINEZ IN HIS UNAUTHORIZED POSTER COURT BY WAKING OFFICERS AFTER 11:00 PM VIOLATES PD-22, RULES #7, #20, (OFFICER MARTINEZ IS THE ONLY OFFICER WHO WAKES OFFENDERS TO PRESENT THEIR ID'S), #23 (IN THIS CASE DENYING OFFENDER'S ADEQUENT SLEEP), #37 (THIS BY EXHIBITING DISRUPTIVE BEHAVIOR IN THE WORK PLACE),

OFFICER MARTINEZ'S BEHAVIOR IS CAUSING A HOSTILE WORK ENVIRONMENT FOR OTHER OFFICERS BY CAUSING OFFENDERS TO BE WAKENED BASED ON A RULE, POLICY, PROCEDURE THAT ONLY OFFICER MARTINEZ KNOWS, APPLIES, OR ENFORCES, OFFICERS AREN'T



PERMITTED TO IMPLEMENT A POLICY THAT DOESN'T EXIST. THE OFFICER HAS THE OPPORTUNITY TO HAVE OFFENDERS STAND TO PRESENT ID'S AT THE 8:00 PM ROSTER COUNT, WHEN OFFENDERS ARE STILL AWAKE.

OFFICER MARTINEZ APPEARS TO TAKE PLEASURE IN WAKING UP SLEEPING OFFENDERS NOT ONLY FOR COUNT/ID PRESENTATION BUT HIS POLICY OF PASSING OUT MAIL AFTER LIGHTS OUT. THIS ISN'T THE FIRST TIME OFFICER MARTINEZ HAS BEEN GRIEVED FOR THIS SAME PROCEDURE, AND IT IS DOUBTFUL IT WILL BE RESOLVED BY THIS PROCEDURE OF DOING A GRIEVANCE.

Action Requested to resolve your Complaint:

OFFENDERS WORK EARLY AND SLEEP IS NECESSARY, ROSTER COUNT IS CONDUCTED A 8:00 PM, ID'S CAN BE "PERSONALLY" PRESENTED AT THAT TIME

Offender Signature: John Fain (SUBMITTED @ 3:00 AM) Date: 10-17-17

Grievance Response:

Your claim has been reviewed. Investigation failed to produce substantiated evidence to support your allegations against Officer Martinez. Count procedures are a very important part of security measures, therefore, it is very important that all offenders are accounted for. Officer Martinez is performing his job duties accordingly. No further action warranted by this office.

Signature Authority:

C. Furr

Warden C. Furr

Date: DEC 13 2017

If you are dissatisfied with the Step 1 response, you may submit a Step 2 (I-128) to the Unit Grievance Investigator within 15 days from the date of the Step 1 response. State the reason for appeal on the Step 2 Form.

Returned because: \* Resubmit this form when the corrections are made.

- ☐ 1. Grievable time period has expired.
- ☐ 2. Submission in excess of 1 every 7 days. \*
- ☐ 3. Originals not submitted. \*
- ☐ 4. Inappropriate/Excessive attachments. \*
- ☐ 5. No documented attempt at informal resolution. \*
- ☐ 6. No requested relief is stated. \*
- ☐ 7. Malicious use of vulgar, indecent, or physically threatening language \*
- ☐ 8. The issue presented is not grievable.
- ☐ 9. Redundant, Refer to grievance # \_\_\_\_\_
- ☐ 10. Illegible/Incomprehensible. \*
- ☐ 11. Inappropriate. \*

UGI Printed Name/Signature: \_\_\_\_\_

Application of the screening criteria for this grievance is not expected to adversely affect the offender's health.

Medical Signature Authority: \_\_\_\_\_

Exhibit 1

### OFFICE USE ONLY

Initial Submission	UGI Initials: _____
Grievance #: _____	
Screening Criteria Used: _____	
Date Recd from Offender: _____	
Date Returned to Offender: _____	
2 <sup>nd</sup> Submission	UGI Initials: _____
Grievance #: _____	
Screening Criteria Used: _____	
Date Recd from Offender: _____	
Date Returned to Offender: _____	
3 <sup>rd</sup> Submission	UGI Initials: _____
Grievance #: _____	
Screening Criteria Used: _____	
Date Recd from Offender: _____	
Date Returned to Offender: _____	



**TEXAS  
DEPARTMENT OF CRIMINAL  
JUSTICE**

**OFFENDER GRIEVANCE PROGRAM**

**NOTICE**

All documentation that follows this sheet is restricted and confidential and is not to be released without the authorization of the administrator of offender grievances.

**RESTRICTED  
AND  
CONFIDENTIAL**

Exhibit 1

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## GRIEVANCE INVESTIGATION WORKSHEET

Restricted &amp; Confidential

GRIEVANCE OFFICE USE  
ONLY

STEP 1 X

STEP 2

Unit: ML Investigator ID: I-2475 Date Initiated: 10/18/17 Date Completed: 12/13/17 Date Due: 11/27/17  
 Offender Name: Fain, Roger TDCJ No: 00700474 Grievance Number: 2018025778

Issue Code:	EMERGENCY	ADA	( )	Property	( )	Use of Force (UOF)	( )
815	YES ( )	Disciplinary	( )	Religion	( )	Harassment or Retaliation*	( )
	NO (X)	Medical	( )	OPI Investigation	( )	PREA	( )

\*Harassment or Retaliation of Use of the Grievance Procedure, Access to Courts, or other Legal Activity

Note: Offenders are not allowed to review the grievance investigation worksheet at any time. For claims of sexual abuse, sexual assault, criminal acts by staff, Excessive or Unreported UOF, the investigation must be conducted by the Office of Inspector General (OIG) and the OIG Fact Sheet completed.

Summary of Issue: (Include date, time and location):

See Attached Narrative

Requested Remedy:

The following is to be completed and signed by the Investigating Official. Attach statements/supporting documentation, if applicable.

Summary of Fact Finding Activity:

Sent to: Ofc. V. Martinez 2A/GP

SM - 01.03 Count Procedures

Suggested Response to Offender:

Your claim has been reviewed. Investigation failed to produce substantiated evidence to support your allegations against Officer Martinez. Count procedures are a very important part of security measures, therefore, it is very important that all offenders are accounted for. Officer Martinez is performing his job duties accordingly. No further action warranted by this office.

OUTCOME CODE: D RESOLUTION CODE: 2.01

Investigating official completes the section below:

Printed Name:

M. Lugo

Signature:

M. Lugo

Title:

Investigator III

Date:

12/13/17

This grievance is being processed in an effort to resolve a problem through the established procedures identified in BP-03.77 and AD-0382. It is expressly prohibited to subject the grievant, other offenders, or staff to any form of reprisal for the use of these procedures.

Exhibit 1

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## GRIEVANCE INVESTIGATION WORKSHEET

## Official Statement

Unit: ML Staff Name: Ofc. V. Martinez 2A/GP Grievance #: 2018025778 Date: 10/18/17  
 Offender Name: Fain, Roger TDCJ#: 00700474 Housing Location: 19Y-007

In accordance with BP 03.77, you are required to participate in this investigation as noted. Address each allegation thoroughly. Do not respond with indefinite answers such as "I don't know" or "I have no knowledge of". If you have no knowledge, explain the reason why (e.g., I was on vacation; I was not assigned there, etc.) Your answers are to be factual, professional, and complete. Do not include opinions or unrelated comments. Remember, the Executive Director, Office of the Inspector General (OIG), Attorney General's Office and State and Federal Court Officials may review your response. All grievances are confidential and may not be discussed between you and the offender or with other individuals. You are expected to return this investigation within 10 working days of receipt. Additional time may be requested by contacting the grievance investigator. Sign and date the form in the designated locations when completed and return it to the Unit Grievance Office. If you were provided a narrative copy of the grievance, it must also be returned to the Unit Grievance Office. The grievance may not be duplicated or shared with the accused staff member.

Please Provide the Following Documents

- |  |   |
|--|---|
| <input type="checkbox"/> Participant(s) Statement                    | <input type="checkbox"/> Other                                      |
| <input type="checkbox"/> Witness(es) Statement (signed)              | <input type="checkbox"/> Staff or Offender Protection Investigation |
| <input type="checkbox"/> Activity Logs (Recreation, Shower, Feeding) | <input type="checkbox"/> Property Inventory Forms                   |
| <input type="checkbox"/> Shift Roster                                | <input type="checkbox"/> Property Logs                              |
| <input type="checkbox"/> Ingress/Egress Log                          |   |
| <input type="checkbox"/> Property Confiscation Form                  |   |

## ALLEGATIONS:

Please see attached and address all allegations.

EMPLOYEE STATEMENT: During a proper roster count, I order offenders to come to the end of the bunk to present their id for a proper roster count. If they fail to comply I do write a disciplinary case for disobeying orders. I do not take pleasure in waking up offenders but have to because it's how it's supposed to be done to properly identify offenders.

Martinez, V [Signature] 10/31/17  
 PRINTED NAME SIGNATURE DATE  
CO III 2A GP / security  
 RANK/TITLE SHIFT/DEPARTMENT

SUPERVISOR COMMENTS: Officer Martinez did conduct a proper roster count by waking the offenders up to verify their identity,

K. Zambardo [Signature] 10/31/17  
 PRINTED NAME SIGNATURE DATE  
[Signature] 2A GP  
 RANK/TITLE SHIFT/DEPARTMENT







You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? ASKED FOR RANIK, When? 10-17-17

What was their response? RANIK WAS NOT CALLED, IN FACT IT WAS DENIED

What action was taken? NONE

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate

AT APPROXIMATELY 11:25 PM, 10-17-17, OFFICER MARTINEZ, <sup>COLL</sup> BEGAN TO WAKE ALL OFFENDERS ON Y-DORM, AND STATED THAT THEY HAD TO STAND AT THE END OF THEIR CUBICLES, AND HAND HIM THEIR ID CARDS, FAILING TO DO SO, OFFICER MARTINEZ MADE AN ISSUE OUT OF IT BY HAVING ANOTHER OFFICER (NEW BOO, NAME UNKNOWN), INDICATE THE BUNK NUMBER ON ANOTHER PIECE OF PAPER.

THE CAMERAS WILL SHOW THAT ALL OFFENDERS COMPLIED WITH WHAT APPEARS TO BE AN UNLAWFUL ORDER, BUT FAILING TO INSTANTLY COMPLY WITH OFFICER MARTINEZ'S ORDER GOT YOUR BUNK NUMBER WRITTEN DOWN, WITH THE THREAT OF A DISCIPLINARY CASE.

OFFICER MARTINEZ IN HIS UNAUTHORIZED ROSTER COUNT BY WAKING OFFICERS AFTER 11:00 PM VIOLATES PD-22, RULES #7, #20, (OFFICER MARTINEZ IS THE ONLY OFFICER WHO WAKES OFFENDERS TO PRESENT THEIR ID'S), #33 (IN THIS CASE DENYING OFFENDER'S ADEQUENT SLEEP), #37 (THIS BY EXHIBITING DISRUPTIVE BEHAVIOR IN THE WORK PLACE),

OFFICER MARTINEZ'S BEHAVIOR IS CAUSING A HOSTILE WORK ENVIRONMENT FOR OTHER OFFICERS BY CAUSING OFFENDERS TO BE WAKENED BASED ON A RULE, POLICY, PROCEDURE THAT ONLY OFFICER MARTINEZ KNOWS, APPLIES, OR ENFORCES, OFFICERS AREN'T

I-127 Front (Revised 11-2010)

YOUR SIGNATURE IS REQUIRED ON BACK OF THIS FORM

(OVER)

Appendix F

PERMITTED TO IMPLEMENT A POLICY THAT DOESN'T EXIST. THE OFFICER HAS THE OPPORTUNITY TO HAVE OFFENDERS STAND TO PRESENT ID'S AT THE 8:00 PM ROSTER COUNT, WHEN OFFENDERS ARE STILL AWAKE.

OFFICER MARTINEZ APPEARS TO TAKE PLEASURE IN WAKING UP SLEEPING OFFENDERS NOT ONLY FOR COUNT/ID PRESENTATION BUT HIS POLICY OF PASSING MAIL AFTER LIGHTS OUT. THIS ISN'T THE FIRST TIME OFFICER MARTINEZ HAS BEEN GRIEVED FOR THIS SAME PROCEDURE, AND IT IS DOUBTFUL IT







Step 1	<input checked="" type="checkbox"/>	Grievance #	Offender Name	TDCJ #	Unit
Step 2	<input type="checkbox"/>	7018025738	GAIN, Roger	700474	ML



## Texas Department of Criminal Justice

### NOTICE OF EXTENSION

#### Offender Grievance Office

In accordance with the procedures outlined in BP-03.77, "Offender Grievances," and AD-03.82, "Management of Offender Grievances," you are hereby notified that additional time is necessary to complete the investigation of your:

**Step 1 Grievance:** *(check the applicable box)*

- ☐ An additional 30 days is needed for appropriate response to your disciplinary appeal.
- ☒ An additional 40 days is needed for appropriate response to your grievance.
- ☐ An additional 45 days is needed for appropriate response to your medical Step 1 grievance.

**Step 2 Grievance:** *(check the applicable box)*

- ☐ An additional 30 days is needed for appropriate response to your disciplinary appeal.
- ☐ An additional 40 days is needed for appropriate response to your Step 2 grievance.
- ☐ An additional 45 days is needed for appropriate response to your medical Step 2 grievance.

K. Fuentes, Clerk II

Name and Title

11/14/17

Date

Original – Send to the Offender

Copy – Attach to the Grievance







## Texas Department of Criminal Justice

STEP 2

OFFENDER  
GRIEVANCE FORM

Offender Name: Roger Fair TDCJ # 700474  
Unit: ML Housing Assignment: 19 Building - Ybarr  
Unit where incident occurred: ML

## OFFICE USE ONLY

Grievance #: 2018025778  
UGI Recd Date: 1-29-18  
HQ Recd Date: 2-5-18  
Date Due: 3/1  
Grievance Code: 815  
Investigator ID #: 1722  
Extension Date: \_\_\_\_\_



JAN 29 2018



Texas Department of Criminal Justice  
**STEP 2**  
**OFFENDER**  
**GRIEVANCE FORM**

OFFICE USE ONLY	
Grievance No.	2018025778
EC Filed Date	DEC 20 2017
HO Filed Date	DEC 28 2017
Date Recd	1-29
File/Val/Comp	815,899
Investigation ID#	
Investigator Name	

Offender Name: Roger Fain TDCJ # 00700474  
 Unit: McConnell Housing Assignment: 19 Building Y-Dorm  
 Unit where incident occurred: 19 Building Y-Dorm - 007

You must attach the completed Step 1 Grievance to this form before you can appeal. If the grievance is not accepted, you may not appeal to Step 2 until a Step 1 decision has been made.

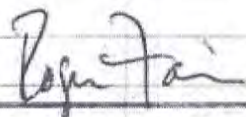
Give reason for appeal (Be Specific): I am dissatisfied with the response to my Step 1 grievance.

It is obvious that the Warden's response is just a blow-off of the issue presented to him as well as many others. When an issue is brought forth with numerous Offender's stating the same thing, not only from the same Dorm, but from others and the Grievance Investigator finds that the "Investigation Failed To Produce Substantial Evidence To Support Your Allegations..." some thing is seriously flawed with the investigation of said claim, and the investigator who fails to properly investigate the issues brought forth.

It is apparent to me that the investigator's investigation was just to ask the Officer involved in the incident grieved if the matter is true or not??? Name one Officer working for TDCJ-CID who would admit wrong doing in any type of investigation. When asked it is apparent Officer Martinez stated he did nothing wrong, that he was only doing his assigned job...

My Step-I states a number of claims that are all from the same incident, and since this Office only recognizes "One Issue Per Grievance" here is my issue I wish to put forth, the Grievance Procedure On The McConnell Unit Is A Joke, and that is the gist of my issue.

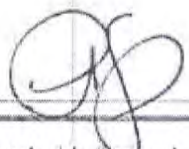


Offender Signature: Date: December 16th 2017

Grievance Response:

Your complaint has been noted and was appropriately addressed at step one. A bed book account is performed during nighttime hours when offenders are confined to their housing areas. It is a physical count of offenders that requires a verbal response and positive identification of the offender using the offender's identification card. There is no evidence to support your allegations of harassment. No further action warranted.

P. Chapa, Assistant Regional Director

Signature Authority: Date: 03/12/2018Returned because: *"Resubmit this form when corrections are made."*

- ☐ 1. Grievable time period has expired.
- ☐ 2. Illegible/Incomprehensible.\*
- ☒ 3. Originals not submitted.\* *Signature*
- ☐ 4. Inappropriate/Excessive attachments.\*
- ☐ 5. Malicious use of vulgar, indecent, or physically threatening language.
- ☐ 6. Inappropriate.\*

CGO Staff Signature: *L. Pelotie* 

## OFFICE USE ONLY

Initial Submission

CGO Initials: UPDate UGI Recd: 12-20Date CGO Recd: 12-28-17(check one) ☒ Screened ☐ Improperly SubmittedComments: \* 3 *Signature*Date Returned to Offender: 1-23-182<sup>nd</sup> Submission

CGO Initials: \_\_\_\_\_

Date UGI Recd: \_\_\_\_\_

Date CGO Recd: \_\_\_\_\_

(check one) ☐ Screened ☐ Improperly Submitted

Comments: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

3<sup>rd</sup> Submission

CGO Initials: \_\_\_\_\_

Date UGI Recd: \_\_\_\_\_

Date CGO Recd: \_\_\_\_\_

(check one) ☐ Screened ☐ Improperly Submitted

Comments: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

Exhibit 1

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## Texas Department of Criminal Justice

# STEP 1 OFFENDER GRIEVANCE FORM

## OFFICE USE ONLY

Grievance #: 2018025778  
 Date Received: 10.18.17  
 Date Due: 11.27.17  
 Grievance Code: 815  
 Investigator ID #: 1930 2475  
 Extension Date: 1-6  
 Date Retd to Offender: DEC 15 2017

Offender Name: Roger Fain TDCJ # 00700474  
 Unit: McConnell Housing Assignment: 19 Y 007  
 Unit where incident occurred: McConnell, Dorm 19 Y

You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? ASKED FOR RANIK When? 10-17-17  
 What was their response? RANIK WAS NOT CALLED, IN FACT IT WAS DENIED  
 What action was taken? NONE

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate

AT APPROXIMATELY 11:25 PM, 10-17-17, OFFICER MARTINEZ, COLL  
 BEGAN TO WAKE ALL OFFENDERS ON Y-DORM, AND STATED THAT  
 THEY HAD TO STAND AT THE END OF THEIR CUBICLES, AND HAND  
 HIM THEIR ID CARDS, FAILING TO DO SO, OFFICER MARTINEZ  
 MADE AN ISSUE OUT OF IT BY HAVING ANOTHER OFFICER, (NEW  
 BOOT, NAME UNKNOWN), INDICATE THE BUNK NUMBER ON AN-  
 OTHER PIECE OF PAPER.

THE CAMERAS WILL SHOW THAT ALL OFFENDERS COMPLIED WITH  
 WHAT APPEARS TO BE AN UNLAWFUL ORDER, BUT FAILING TO  
 INSTANTLY COMPLY WITH OFFICER MARTINEZ'S ORDER GOT OUR  
 BUNK NUMBER WRITTEN DOWN, WITH THE THREAT OF A DISCIPLINARY  
 CASE.

OFFICER MARTINEZ IN HIS UNAUTHORIZED POSTER COURT BY  
 WAKING OFFICERS AFTER 11:00 PM VIOLATES PD-22, RULES #7,  
 #20, (OFFICER MARTINEZ IS THE ONLY OFFICER WHO WAKES OF-  
 FENDERS TO PRESENT THEIR ID'S), #33 (IN THIS CASE DENYING  
 OFFENDER'S ADEQUENT SLEEP), #37 (THIS BY EXHIBITING DIS-  
 RUPTIVE BEHAVIOR IN THE WORKPLACE),

OFFICER MARTINEZ'S BEHAVIOR IS CAUSING A HOSTILE WORK  
 ENVIRONMENT FOR OTHER OFFICERS BY CAUSING OFFENDERS TO  
 BE WAKENED BASED ON A RULE, POLICY, PROCEDURE THAT ONLY  
 OFFICER MARTINEZ KNOWS, APPLIES, OR ENFORCES, OFFICERS ARNIT



PERMITTED TO IMPLEMENT A POLICY THAT DOESN'T EXIST. THE OFFICER HAS THE OPPORTUNITY TO HAVE OFFENDERS STAND TO PRESENT ID'S AT THE 8:00 PM ROSTER COUNT, WHEN OFFENDERS ARE STILL AWAKE.

OFFICER MARTINEZ APPEARS TO TAKE PLEASURE IN WAKING UP SLEEPING OFFENDERS NOT ONLY FOR COUNT/ID PRESENTATION BUT HIS POLICY OF PASSING OUT MAIL AFTER LIGHTS OUT. THIS ISN'T THE FIRST TIME OFFICER MARTINEZ HAS BEEN GRIEVED FOR THIS SAME PROCEDURE, AND IT IS DOUBTFUL IT WILL BE RESOLVED BY THIS PROCEDURE OF DOING A GRIEVANCE.

Action Requested to resolve your Complaint.

OFFENDERS WORK EARLY AND SLEEP IS NECESSARY, ROSTER COUNT IS CONDUCTED A 8:00 PM, ID'S CAN BE "PERSONALLY" PRESENTED AT THAT TIME

Offender Signature: Roger Fain (SUBMITTED @ 3:00 AM) Date: 10-17-17

Grievance Response:

Your claim has been reviewed. Investigation failed to produce substantiated evidence to support your allegations against Officer Martinez. Count procedures are a very important part of security measures, therefore, it is very important that all offenders are accounted for. Officer Martinez is performing his job duties accordingly. No further action warranted by this office.

Signature Authority:

C. Furr

Warden C. Furr

Date: DEC 13 2017

If you are dissatisfied with the Step 1 response, you may submit a Step 2 (I-128) to the Unit Grievance Investigator within 15 days from the date of the Step 1 response. State the reason for appeal on the Step 2 Form.

Returned because: \*Resubmit this form when the corrections are made.

- ☐ 1. Grievable time period has expired.
- ☐ 2. Submission in excess of 1 every 7 days. \*
- ☐ 3. Originals not submitted. \*
- ☐ 4. Inappropriate/Excessive attachments. \*
- ☐ 5. No documented attempt at informal resolution. \*
- ☐ 6. No requested relief is stated. \*
- ☐ 7. Malicious use of vulgar, indecent, or physically threatening language. \*
- ☐ 8. The issue presented is not grievable.
- ☐ 9. Redundant, Refer to grievance # \_\_\_\_\_
- ☐ 10. Illegible/Incomprehensible. \*
- ☐ 11. Inappropriate. \*

UGI Printed Name/Signature: \_\_\_\_\_

Application of the screening criteria for this grievance is not expected to adversely affect the offender's health.

Medical Signature Authority: \_\_\_\_\_

Exhibit 1

I-127 Back (Revised 11-2010)

### OFFICE USE ONLY

Initial Submission UGI Initials: \_\_\_\_\_  
 Grievance #: \_\_\_\_\_  
 Screening Criteria Used: \_\_\_\_\_  
 Date Recd from Offender: \_\_\_\_\_  
 Date Returned to Offender: \_\_\_\_\_  
 2<sup>nd</sup> Submission UGI Initials: \_\_\_\_\_  
 Grievance #: \_\_\_\_\_  
 Screening Criteria Used: \_\_\_\_\_  
 Date Recd from Offender: \_\_\_\_\_  
 Date Returned to Offender: \_\_\_\_\_  
 3<sup>rd</sup> Submission UGI Initials: \_\_\_\_\_  
 Grievance #: \_\_\_\_\_  
 Screening Criteria Used: \_\_\_\_\_  
 Date Recd from Offender: \_\_\_\_\_  
 Date Returned to Offender: \_\_\_\_\_

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**TEXAS  
DEPARTMENT OF CRIMINAL  
JUSTICE**

**OFFENDER GRIEVANCE PROGRAM**

**NOTICE**

All documentation that follows this sheet is restricted and confidential and is not to be released without the authorization of the administrator of offender grievances.

**RESTRICTED  
AND  
CONFIDENTIAL**

Exhibit 1

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## GRIEVANCE INVESTIGATION WORKSHEET

Restricted &amp; Confidential

GRIEVANCE OFFICE USE  
ONLY

STEP 1 X

STEP 2

Unit: ML Investigator ID: I-2475 Date Initiated: 10/18/17 Date Completed: 12/13/17 Date Due: 11/27/17  
 Offender Name: Fain, Roger TDCJ No: 00700474 Grievance Number: 2018025778

Issue Code:	EMERGENCY	ADA	( )	Property	( )	Use of Force (UOF)	( )
815	YES ( )	Disciplinary	( )	Religion	( )	Harassment or Retaliation*	( )
	NO (X)	Medical	( )	OPI Investigation	( )	PREA	( )

\*Harassment or Retaliation of Use of the Grievance Procedure, Access to Courts, or other Legal Activity

Note: Offenders are not allowed to review the grievance investigation worksheet at any time. For claims of sexual abuse, sexual assault, criminal acts by staff, Excessive or Unreported UOF, the investigation must be conducted by the Office of Inspector General (OIG) and the OIG Fact Sheet completed.

Summary of Issue: (Include date, time and location):

See Attached Narrative

Requested Remedy:

The following is to be completed and signed by the Investigating Official. Attach statements/supporting documentation, if applicable.

Summary of Fact Finding Activity:

Sent to: Ofc. V. Martinez 2A/GP

SM - 01.03 Count Procedures

Suggested Response to Offender:

Your claim has been reviewed. Investigation failed to produce substantiated evidence to support your allegations against Officer Martinez. Count procedures are a very important part of security measures, therefore, it is very important that all offenders are accounted for. Officer Martinez is performing his job duties accordingly. No further action warranted by this office.

OUTCOME CODE: D RESOLUTION CODE: 2.01

Investigating official completes the section below:

Printed Name: M. LugoSignature: M. LugoTitle: Investigator IIIDate: 12/13/17

This grievance is being processed in an effort to resolve a problem through the established procedures identified in BP-03.77 and AD-0362. It is expressly prohibited to subject the grievant, other offenders, or staff to any form of reprisal for the use of these procedures.

Exhibit 1

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# TEXAS DEPARTMENT OF CRIMINAL JUSTICE

## OFFENDER GRIEVANCE PROGRAM

### NOTICE

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# RESTRICTED AND CONFIDENTIAL



## GRIEVANCE INVESTIGATION WORKSHEET

## Official Statement

Unit: ML Staff Name: Ofc. V. Martinez 2A/GP Grievance #: 2018025778 Date: 10/18/17  
 Offender Name: Fain, Roger TDCJ#: 00700474 Housing Location: 19Y-007

In accordance with BP 03.77, you are required to participate in this investigation as noted. Address each allegation thoroughly. Do not respond with indefinite answers such as "I don't know" or "I have no knowledge of". If you have no knowledge, explain the reason why. (e.g., I was on vacation; I was not assigned there, etc.) Your answers are to be factual, professional, and complete. Do not include opinions or unrelated comments. Remember, the Executive Director, Office of the Inspector General (OIG), Attorney General's Office and State and Federal Court Officials may review your response. All grievances are confidential and may not be discussed between you and the offender or with other individuals. You are expected to return this investigation within 10 working days of receipt. Additional time may be requested by contacting the grievance investigator. Sign and date the form in the designated locations when completed and return it to the Unit Grievance Office. If you were provided a narrative copy of the grievance, it must also be returned to the Unit Grievance Office. The grievance may not be duplicated or shared with the accused staff member.

Please Provide the Following Documents

- |  |   |
|--|---|
| <input type="checkbox"/> Participant(s) Statement                    |   |
| <input type="checkbox"/> Witness (es) Statement (signed)             |   |
| <input type="checkbox"/> Activity Logs (Recreation, Shower, Feeding) | <input type="checkbox"/> Other                                      |
| <input type="checkbox"/> Shift Roster                                | <input type="checkbox"/> Staff or Offender Protection Investigation |
| <input type="checkbox"/> Ingress/Egress Log                          | <input type="checkbox"/> Property Inventory Forms                   |
| <input type="checkbox"/> Property Confiscation Form                  | <input type="checkbox"/> Property Logs                              |

## ALLEGATIONS:

Please see attached and address all allegations.

EMPLOYEE STATEMENT: During a proper roster count, I order offenders to come to the end of the bunk to present their id for a proper roster count. If they fail to comply I do write a disciplinary case for disobeying orders. I do not take pleasure in waking up offenders but have to because it's how it's supposed to be done to properly identify offenders.

Martinez, V  
 PRINTED NAME

V. Martinez  
 SIGNATURE

10/31/17  
 DATE

CO III  
 RANK/TITLE

2AGP/Security  
 SHIFT/DEPARTMENT

SUPERVISOR COMMENTS: Officer Martinez did conduct a proper roster count by waking the offenders up to verify their identity.

K. Zambardo  
 PRINTED NAME

K. Zambardo  
 SIGNATURE

10-31-17  
 DATE

K. Zambardo  
 RANK/TITLE

2AGP  
 SHIFT/DEPARTMENT



You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? ASKED FOR RANIK When? 10-17-17

What was their response? RANIK WAS NOT CALLED, IN FACT IT WAS DENIED

What action was taken? NONE

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate

AT APPROXIMATELY 11:25 PM, 10-17-17, OFFICER MARTINEZ, <sup>COLL</sup> BEGAN TO WAKE ALL OFFENDERS ON 4-DORM, AND STATED THAT THEY HAD TO STAND AT THE END OF THEIR CUBICLES, AND HAND HIM THEIR ID CARDS, FAILING TO DO SO, OFFICER MARTINEZ MADE AN ISSUE OUT OF IT BY HAVING ANOTHER OFFICER (NEW BOO NAME UNKNOWN), INDICATE THE BUNK NUMBER ON ANOTHER PIECE OF PAPER.

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OFFICER MARTINEZ IN HIS UNAUTHORIZED POSTER COURT BY WAKING OFFICERS AFTER 11:00 PM VIOLATES PD-22, RULES #7, #20, (OFFICER MARTINEZ IS THE ONLY OFFICER WHO WAKES OFFENDERS TO PRESENT THEIR ID'S), #33 (IN THIS CASE DENYING OFFENDER'S ADEQUENT SLEEP), #37 (THIS BY EXHIBITING DISRUPTIVE BEHAVIOR IN THE WORKPLACE),

OFFICER MARTINEZ'S BEHAVIOR IS CAUSING A HOSTILE WORK ENVIRONMENT FOR OTHER OFFICERS BY CAUSING OFFENDERS TO BE WAKENED BASED ON A RULE POLICY, PROCEDURE THAT ONLY OFFICER MARTINEZ KNOWS, APPLIES, OR ENFORCES, OFFICERS AREN'T

1-127 Front (Revised 11-2010)

YOUR SIGNATURE IS REQUIRED ON BACK OF THIS FORM

(OVER)

Appendix F

PERMITTED TO IMPLEMENT A POLICY THAT DOESN'T EXIST. THE OFFICER HAS THE OPPORTUNITY TO HAVE OFFENDERS STAND TO PRESENT ID'S AT THE 8:00 PM POSTER COURT, WHEN OFFENDERS ARE STILL AWAKE.

OFFICER MARTINEZ APPEARS TO TAKE PLEASURE IN WAKING UP SLEEPING OFFENDERS NOT ONLY FOR COURT/ID PRESENTATION BUT HIS POLICY OF PASSING MAIL AFTER LIGHTS OUT. THIS ISN'T THE FIRST TIME OFFICER MARTINEZ HAS BEEN GRIEVED FOR THIS SAME PROCEDURE, AND IT IS DOUBTFUL IT



Step 1	<input checked="" type="checkbox"/>	Grievance #	Offender Name	TDCJ #	Unit
Step 2	<input type="checkbox"/>	7018025778	GAIN, Roger	700474	ML



## Texas Department of Criminal Justice

### NOTICE OF EXTENSION

#### Offender Grievance Office

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**Step 1 Grievance:** *(check the applicable box)*

- ☐ An additional 30 days is needed for appropriate response to your disciplinary appeal.
- ☒ An additional 40 days is needed for appropriate response to your grievance.
- ☐ An additional 45 days is needed for appropriate response to your medical Step 1 grievance.

**Step 2 Grievance:** *(check the applicable box)*

- ☐ An additional 30 days is needed for appropriate response to your disciplinary appeal.
- ☐ An additional 40 days is needed for appropriate response to your Step 2 grievance.
- ☐ An additional 45 days is needed for appropriate response to your medical Step 2 grievance.

K. Fuentes, Clerk II

11/14/17

Name and Title

Date

Original – Send to the Offender

Copy – Attach to the Grievance

## GRIEVANCE INVESTIGATION WORKSHEET

Restricted &amp; Confidential

## GRIEVANCE OFFICE USE ONLY

STEP 1

STEP 2 X

Unit	R4	INV ID:	I1722	GR #	2018025778	Date Initiated:	03/09/18	Date Completed:	03/19/18	Due Date	03/17/2018
Offender Name:		FAIN, ROGER				TDCJ No:	700474	Housing:	ML		
Issue Code:		EMERGENCY		ADA	( )	Property	( )	Use of Force (UOF)	( )		
815		YES	( )	Disciplinary	( )	Religion	( )	Harassment or Retaliation*	( )		
		NO	(X)	Medical	( )	OPI Investigation	( )	PREA	( )		

\*Harassment or Retaliation of Use of the Grievance Procedure, Access to Courts, or other Legal Activity

Note: Offenders are not allowed to review the grievance investigation worksheet at any time. For claims of sexual abuse, sexual assault, criminal acts by staff, Excessive or Unreported UOF, the investigation must be conducted by the Office of Inspector General (OIG) and the OIG Fact Sheet completed.

## Summary of Issue: (Include date, time and location):

Offender is claiming Officer Martinez woke everyone up at 11:25 PM and ordered them to stand at the end of their bunk and to hand him their ID. Claims this is a violation of policy, Martinez is the only officer that does this, deprives offenders of sleep and is causing a hostile environment.

## Requested Remedy:

Offender work early and sleep is necessary, roster count is conducted at 8:00 PM ID's can be personally presented at that time.

The following is to be completed and signed by the Investigating Official. Attach statements/supporting documentation, if applicable.

## Summary of Fact Finding Activity:

CO V Martinez statement  
Lt. Zambrano statement  
SM-01.03 Count Procedures

## Suggested Response to Offender:

Your complaint has been noted and was appropriately addressed at step one. A bed book account is performed during nighttime hours when offenders are confined to their housing areas. It is a physical count of offenders that requires a verbal response and positive identification of the offender using the offender's identification card. There is no evidence to support your allegations of harassment. No further action warranted.



OUTCOME CODE:	D	RESOLUTION CODE:	2.01	(Grievance Office Use Only)
---------------	---	------------------	------	-----------------------------

Investigating official completes the section below:

Printed Name:	K. Tollette	Signature:	
Title:	Program Supervisor III	Date:	March 9, 2018

This grievance is being processed in an effort to resolve a problem through the established procedures identified in BP-03.77 and AD-0382. It is expressly prohibited to subject the grievant, other offenders, or staff to any form of reprisal for the use of these procedures.

Exhibit 1

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**Texas Department of Criminal Justice**  
**STEP 2** **OFFENDER**  
**GRIEVANCE FORM**

Offender Name: Roger Fain TDCJ # 00700474  
Unit: McConnell Housing Assignment: 19 Y-007  
Unit where incident occurred: 19 Dorm - McConnell Unit

OFFICE USE ONLY	
Grievance #:	<u>2017 1921106</u>
UGI Recd Date:	<u>OCT 02 2017</u>
HQ Recd Date:	<u>OCT 05 2017</u>
Date Due:	<u>NOV 11 2017</u>
Grievance Code:	<u>815</u>
Investigator ID#:	<u>2197</u>
Extension Date:	

*You must attach the completed Step 1 Grievance that has been signed by the Warden for your Step 2 appeal to be accepted. You may not appeal to Step 2 with a Step 1 that has been returned unprocessed.*

Give reason for appeal (Be Specific). *I am dissatisfied with the response at Step 1 because...*

Warden C. Furr, failed to address the actual issue(s) of my Step-1 Grievance, and that was the Officer conducting count was waking people up, and having them stand at the end of their cubicle and present their ID to the Officer. This might not violate any standard rule of TDCJ-CID, but it clearly establishes that the Officer was intentionally doing something that is not apart of the standard count procedure.

Furthermore, when I asked to see rank, which I understand is in the rule book, the Officer stated that I needed to address the matter to rank, yet rank was never called, the issue of waking Offenders up at 11:30PM to stand and present their ID's could not be addressed by a ranking Officer, thus the matter was ignored by the Officers who should have been available to deal with the matter.

It seems that ever since the lawsuit against the lights being turned on, not allowing Offenders the proper amount of sleep, the Unit has gone out of its way to make a statement to the Offender population just who actually runs the Unit and implements the rules/policies/procedures even when no such rule(s) exists. Harassment, Retaliation and Abuse Of Authority do come to mind.



Offender Signature: \_\_\_\_\_

Date: December 15 2017

Grievance Response: \_\_\_\_\_

Submit one issue per grievance. Your complaint has been noted and was appropriately addressed at Step One. No further action warranted.

P. Chapa, Assistant Regional Director

Signature Authority: \_\_\_\_\_

Date: 11/2/2017Returned because: *\*Resubmit this form when corrections are made.*

- ☐ 1. Grievable time period has expired.
- ☐ 2. Illegible/Incomprehensible.\*
- ☐ 3. Originals not submitted. \*
- ☐ 4. Inappropriate/Excessive attachments.\*
- ☐ 5. Malicious use of vulgar, indecent, or physically threatening language.
- ☐ 6. Inappropriate.\*

CGO Staff Signature: \_\_\_\_\_

**OFFICE USE ONLY****Initial Submission**

CGO Initials: \_\_\_\_\_

Date UGI Recd: \_\_\_\_\_

Date CGO Recd: \_\_\_\_\_

(check one) ☐ Screened ☐ Improperly Submitted

Comments: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

**2<sup>nd</sup> Submission**

CGO Initials: \_\_\_\_\_

Date UGI Recd: \_\_\_\_\_

Date CGO Recd: \_\_\_\_\_

(check one) ☐ Screened ☐ Improperly Submitted

Comments: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

**3<sup>rd</sup> Submission**

CGO Initials: \_\_\_\_\_

Date UGI Recd: \_\_\_\_\_

Date CGO Recd: \_\_\_\_\_

(check one) ☐ Screened ☐ Improperly Submitted

Comments: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

Exhibit 1

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## Texas Department of Criminal Justice

# STEP 1 OFFENDER GRIEVANCE FORM

## OFFICE USE ONLY

Grievance #: 2017192166  
 Date Received: 8.21.17  
 Date Due: 9.30.17  
 Grievance Code: 85  
 Investigator ID #: 1950 J2209  
 Extension Date: \_\_\_\_\_  
 Date Retd to Offender: SEP 27 2017

Offender Name: ROGER FAIN TDCJ # 700474  
 Unit: MC CONNEL Housing Assignment: 19 Y-007  
 Unit where incident occurred: MC CONNEL

You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? REQUESTED TO SEE RANK, IGNORED When? 11:30 AM 08/20/17  
 What was their response? OFFICER MARTINEZ STATED TO TALK TO RANK, NOT HIM  
 What action was taken? DENIED ACCESS TO RANK, WAKE UP TO "HAND ID TO OFFICER"

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate

AUGUST 20TH 2017, AT 11:30 PM, OFFICER MARTINEZ WAS GOING BUNK TO BUNK WAKING EACH OFFENDER TO HAVE THEM STAND AT THE FOOT OF THE BUNK TO BE COUNTED. OFFICER MARTINEZ STATED "WAKE UP, HAVE YOUR ID IN HAND, AND STAND AT THE END OF THE BUNK, YOU CAN GO BACK TO SLEEP."

OFFICER MARTINEZ'S ACTIONS ABOUT UNIT POLICY, THESE ACTIONS ARE OFFICER MARTINEZ'S INTERPRETATION OF RULES TO HARASS, TO WAKE UP, AND DENY OFFENDERS OF WHAT SLEEP THEY CAN GET IN THE HEAT, OFFICER MARTINEZ'S ACTIONS ARE UNPROFESSIONAL, IRRESPONSIBLE, AND IN VIOLATION OF TDCJ-CID POLICY CONCERNING SLEEP DEPRIVATION.

I WAS AWAKEN BY THE 8:30 PM COUNT OFFICER WHEN HE WAS TAKING A MANDATED PASTOR COUNT.

IT ALWAYS SEEMS IT IS SOLELY THIS OFFICER WHO HARASSES OFFENDERS (MARTINEZ) ABOUT WAKING UP TO PRESENT ID'S. THIS ISN'T A MATTER OF A "WELLNESS CHECK" THIS IS JUST HIS WAY OF HARASSING OFFENDERS



## Action Requested to resolve your Complaint.

OFFICER MARTINEZ NEEDS TO BE EXPLAINED THE POLICY ABOUT ALLOWING 6 UNINTERRUPTED HOURS OF SLEEP, ROSTER COUNT WAS DONE AT 8:30 PM

Offender Signature:

*Roger Furr*

Date:

08-20-17

Grievance Response:

Your complaint has been noted. Staff statement refute your allegations, advising that count procedures were conducted in accordance to policy. Policy stipulates that the correctional officer shall verify they are counting a living, breathing offender, not an object. Correctional officers shall turn on count lights, dayroom lights or use flashlights to assist in conducting an accurate count at nighttime, if needed; furthermore, officers shall positively identify each offender using the offenders ID card. No policy violations occurred. No further action warranted by this office.

Signature Authority:

*C. Furr*

Warden C. Furr

Date: SEP 26 2017

If you are dissatisfied with the Step 1 response, you may submit a Step 2 (I-128) to the Unit Grievance Investigator within 15 days from the date of the Step 1 response. State the reason for appeal on the Step 2 Form.

Returned because: \*Resubmit this form when the corrections are made.

- ☐ 1. Grievable time period has expired.
- ☐ 2. Submission in excess of 1 every 7 days. \*
- ☐ 3. Originals not submitted. \*
- ☐ 4. Inappropriate/Excessive attachments. \*
- ☐ 5. No documented attempt at informal resolution. \*
- ☐ 6. No requested relief is stated. \*
- ☐ 7. Malicious use of vulgar, indecent, or physically threatening language. \*
- ☐ 8. The issue presented is not grievable.
- ☐ 9. Redundant. Refer to grievance # \_\_\_\_\_
- ☐ 10. Illegible/Incomprehensible. \*
- ☐ 11. Inappropriate. \*

UGI Printed Name/Signature: \_\_\_\_\_

Application of the screening criteria for this grievance is not expected to adversely affect the offender's health.

Medical Signature Authority: \_\_\_\_\_

I-127 Back (Revised 11-2010)

Exhibit 1

## OFFICE USE ONLY

Initial Submission

UGI Initials: \_\_\_\_\_

Grievance #: \_\_\_\_\_

Screening Criteria Used: \_\_\_\_\_

Date Recd from Offender: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

2<sup>nd</sup> Submission

UGI Initials: \_\_\_\_\_

Grievance #: \_\_\_\_\_

Screening Criteria Used: \_\_\_\_\_

Date Recd from Offender: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

3<sup>rd</sup> Submission

UGI Initials: \_\_\_\_\_

Grievance #: \_\_\_\_\_

Screening Criteria Used: \_\_\_\_\_

Date Recd from Offender: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

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Appendix F



**TEXAS  
DEPARTMENT OF CRIMINAL  
JUSTICE**

**OFFENDER GRIEVANCE PROGRAM**

**NOTICE**

All documentation that follows this sheet is restricted and confidential and is not to be released without the authorization of the administrator of offender grievances.

**RESTRICTED  
AND  
CONFIDENTIAL**



## GRIEVANCE INVESTIGATION WORKSHEET

Restricted &amp; Confidential

GRIEVANCE OFFICE USE  
ONLY

STEP 1 X

STEP 2

Unit: ML Investigator ID: I 2229 Date Initiated: 08/21/17 Date Completed: 09/21/17 Date Due: 09/30/17  
 Offender Name: Fain, Roger TDCJ No: 700474 Grievance Number: 2017192166

Issue Code:	EMERGENCY	ADA	( )	Property	( )	Use of Force (UOF)	( )
815	YES ( )	Disciplinary	( )	Religion	( )	Harassment or Retaliation*	( )
	NO (X)	Medical	( )	OPI Investigation	( )	PREA	( )

\*Harassment or Retaliation of Use of the Grievance Procedure, Access to Courts, or other Legal Activity

Note: Offenders are not allowed to review the grievance investigation worksheet at any time. For claims of sexual abuse, sexual assault, criminal acts by staff, Excessive or Unreported UOF, the investigation must be conducted by the Office of Inspector General (OIG) and the OIG Fact Sheet completed.

## Summary of Issue: (Include date, time and location):

See Attached Narrative

## Requested Remedy:

Officer Martinez needs to be explained the policy allowing 6 uninterrupted hours of sleep, roster count was done at 8:30pm.

The following is to be completed and signed by the Investigating Official. Attach statements/supporting documentation, if applicable.

## Summary of Fact Finding Activity:

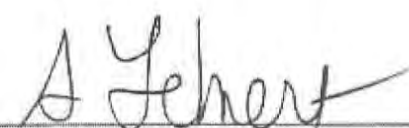
Sent to: Ofc. A. Martinez 2AGP

## Suggested Response to Offender:

Your complaint has been noted. Staff statement refute your allegations, advising that count procedures were conducted in accordance to policy. Policy stipulates that the correctional officer shall verify they are counting a living, breathing offender, not an object. Correctional officers shall turn on count lights, dayroom lights or use flashlights to assist in conducting an accurate count at nighttime, if needed; furthermore, officers shall positively identify each offender using the offenders ID card. No policy violations occurred. No further action warranted by this office.

OUTCOME CODE: D RESOLUTION CODE: 201

Investigating official completes the section below:

Printed Name: SHEILA R. LEHNERTSignature: Title: UGIDate: 09/21/17

This grievance is being processed in an effort to resolve a problem through the established procedures identified in BP-03.77 and AD-0382. It is expressly prohibited to subject the grievant, other offenders, or staff to any form of reprisal for the use of these procedures.



## GRIEVANCE INVESTIGATION WORKSHEET

## Official Statement

Unit: ML Staff Name: Ofc. Martinez 2AGP Grievance #: 2017192166 Date: 08/21/17  
 Offender Name: Fain, Roger TDCJ#: 700474 Housing Location: 19Y-7

In accordance with BP 03.77, you are required to participate in this investigation as noted. Address each allegation thoroughly. Do not respond with indefinite answers such as "I don't know" or "I have no knowledge of". If you have no knowledge, explain the reason why (e.g., I was on vacation; I was not assigned there, etc.) Your answers are to be factual, professional, and complete. Do not include opinions or unrelated comments. Remember, the Executive Director, Office of the Inspector General (OIG), Attorney General's Office and State and Federal Court Officials may review your response. All grievances are confidential and may not be discussed between you and the offender or with other individuals. You are expected to return this investigation within 10 working days of receipt. Additional time may be requested by contacting the grievance investigator. Sign and date the form in the designated locations when completed and return it to the Unit Grievance Office. If you were provided a narrative copy of the grievance, it must also be returned to the Unit Grievance Office. The grievance may not be duplicated or shared with the accused staff member.

## Please Provide the Following Documents

- |  |   |
|--|---|
| <input type="checkbox"/> Participant(s) Statement                    | <input type="checkbox"/> Other                                      |
| <input type="checkbox"/> Witness (es) Statement (signed)             | <input type="checkbox"/> Staff or Offender Protection Investigation |
| <input type="checkbox"/> Activity Logs (Recreation, Shower, Feeding) | <input type="checkbox"/> Property Inventory Forms                   |
| <input type="checkbox"/> Shift Roster                                | <input type="checkbox"/> Property Logs                              |
| <input type="checkbox"/> Ingress/Egress Log                          |   |
| <input type="checkbox"/> Property Confiscation Form                  |   |

## ALLEGATIONS:

Please see attached and address all allegations.

EMPLOYEE STATEMENT: Due to the fact that I was conducting a proper roster count, I did speak loudly and ordered everyone multiple times to come to the end of the bunk, present their id, and afterwards they could go back to sleep, continue reading, or what they were doing. Officers are allowed to wake up offenders so they can be properly identified. I was asked why I was doing this because it wasn't policy. I stated that they could talk to me (when they came back around) so the issue could be further explained.

Martinez, Vicente  
 PRINTED NAME

[Signature]  
 SIGNATURE

8/30/17  
 DATE

CO III  
 RANK/TITLE

2AGP / security  
 SHIFT/DEPARTMENT

SUPERVISOR COMMENTS: Officer Martinez did conduct a proper roster count by policy and physically identified every offender

K. Zurbano  
 PRINTED NAME

[Signature]  
 SIGNATURE

8/31/17  
 DATE

[Signature]  
 RANK/TITLE

2AGP  
 SHIFT/DEPARTMENT



You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? REQUESTED TO SEE RANK, IGNORED When? 11:30 PM 08/20/17  
 What was their response? OFFICER MARTINEZ STATED TO TALK TO RANK, NOT HIM  
 What action was taken? DENIED ACCESS TO RANK, WAKE UP TO "HAND ID TO OFFICER".

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate

AUGUST 20TH 2017, AT 11:30 PM, OFFICER MARTINEZ WAS GOING BUNK TO BUNK WAKING EACH OFFENDER TO HAVE THEM STAND AT THE FOOT OF THE BUNK TO BE COUNTED. OFFICER MARTINEZ STATED "WAKE UP, HAVE YOUR ID IN HAND, AND STAND AT THE END OF THE BUNK, YOU CAN GO BACK TO SLEEP."

OFFICER MARTINEZ'S ACTIONS VIOLATE UNIT POLICY, THESE ACTIONS ARE OFFICER MARTINEZ'S INTERPRETATION OF RULES TO HARASS, TO WAKE UP, AND DENY OFFENDERS OF WHAT SLEEP THEY CAN GET IN THIS HEAT, OFFICER MARTINEZ'S ACTIONS ARE UNPROFESSIONAL, IRRESPONSIBLE, AND IN VIOLATION OF TDCJ-CID POLICY CONCERNING SLEEP DEPRIVATION.

I WAS AWAKEN BY THE 8:30 PM COUNT OFFICER WHEN HE WAS TAKING A NAMED ID ROSTER COUNT.

IT ALWAYS SEEMS IT IS SOLELY THIS OFFICER WHO HARASSES OFFENDERS (MARTINEZ) ABOUT WAKING UP TO PRESENT ID'S. THIS ISN'T A MATTER OF A "WELLNESS CHECK" THIS IS JUST HIS WAY OF HARASSING OFFENDERS



## GRIEVANCE INVESTIGATION WORKSHEET

Restricted &amp; Confidential

GRIEVANCE OFFICE USE ONLY										STEP 1		
										STEP 2 X		
Unit	R4	INV ID:	I2197	GR #	2017192166	Date Initiated:	11/02/17	Date Completed:		11/02/17	Due Date	11/11/17
Offender Name:		FAIN, ROGER				TDCJ No:		700474	Housing:	ML		
Issue Code:		EMERGENCY		ADA	( )	Property		( )	Use of Force (UOF)		( )	
815		YES	( )	Disciplinary	( )	Religion		( )	Harassment or Retaliation*		( )	
		NO	( X )	Medical	( )	OPI Investigation		( )	PREA		( )	
<small>*Harassment or Retaliation of Use of the Grievance Procedure, Access to Courts, or other Legal Activity</small>												
<small>Note: Offenders are not allowed to review the grievance investigation worksheet at any time. For claims of sexual abuse, sexual assault, criminal acts by staff, Excessive or Unreported UOF, the investigation must be conducted by the Office of Inspector General (OIG) and the OIG Fact Sheet completed.</small>												
<b>Summary of Issue: (Include date, time and location):</b>  Offender is claiming that Officer Martinez is going bunk to bunk asking them to come to the front of the bunk with their ID's to do count. Offender claims that this is a way for Officer Martinez to harass and to wake up and deny offenders sleep as this is not policy and very unprofessional.												
<b>Requested Remedy:</b>  Officer Martinez needs to be explained proper policy about allowing 6 hours of uninterrupted sleep as roster count was done at 8:30pm.												
<small>The following is to be completed and signed by the Investigating Official. Attach statements/supporting documentation, if applicable.</small>												
<b>Summary of Fact Finding Activity:</b>  Officer Martinez statement SM-01.03												
<b>Suggested Response to Offender:</b>  <div style="text-align: right;">08</div> Submit one issue per grievance. Your complaint has been noted and was appropriately addressed at Step One. No further action warranted.												
<b>OUTCOME CODE:</b>		D		<b>RESOLUTION CODE:</b>		2.01		(Grievance Office Use Only)				
Investigating official completes the section below:												
Printed Name:		L. PELITIRE				Signature:						
Title:		AA IV				Date:		November 2, 2017				
<small>This grievance is being processed in an effort to resolve a problem through the established procedures identified in BP-03.77 and AD-0382. It is expressly prohibited to subject the grievant, other offenders, or staff to any form of reprisal for the use of these procedures.</small>												





**Texas Department of Criminal Justice**  
**STEP 2** **OFFENDER**  
**GRIEVANCE FORM**

Offender Name: Roger Fain TDCJ # 00700474  
Unit: McConnell Housing Assignment: 19 Y-007  
Unit where incident occurred: Unit Infirmary

OFFICE USE ONLY	
Grievance #:	<u>2017179272</u>
UGI Recd Date:	<u>SEP 14 2017</u>
HQ Recd Date:	<u>SEP 18 2017</u>
Date Due:	<u>10-29</u>
Grievance Code:	<u>618</u>
Investigator ID#:	_____
Extension Date:	_____

*You must attach the completed Step 1 Grievance that has been signed by the Warden for your Step 2 appeal to be accepted. You may not appeal to Step 2 with a Step 1 that has been returned unprocessed.*

**Give reason for appeal (Be Specific).** *I am dissatisfied with the response at Step 1 because...*

I have once again brought forth a complaint against Ms. Tanya Lawson, Practice Manager of the McConnell Unit Infirmary, and once again Ms. Lawson answers the Grievance/Complaint against herself, (See attached document, I-60 dated 07-18-2017).

Ms. Lawson failed to address the issue(s) I raised against her and those concerning the Infirmary, i.e. failing to treat my medical condition with the appropriate medications. Furthermore, in her reply/response, Ms. Lawson compounds her continuing "mis-direction" by lying on a Official TDCJ-CID document, when she states that: "YOUR NAPROXEN PRESCRIPTION EXPIRED ON 4.2.17 AND WAS NOT RENEWED. YOU HAD COMPLETE BLOOD WORK ON IN APRIL, PRIOR TO YOUR CHRONIC CARE CLINIC THAT GAVE THE PROVIDER THE PROPER INFORMATION TO MAKE HIS DETERMINATION." This statement is a lie, and an attempt at mis-directing the issue(s) raised.

Prior to my April 28th 2017 Chronic Care Clinic I did not have any blood work done. My last blood work was done after my Chronic Care Clinic in 2016, and at no time was the bloodwork taken and analyzed for my kidneys or to determine if Naproxen was damaging my kidney function.

I have arthritis, I have serious swelling in my elbows, finger joints, and feet, Naproxen is the medication prescribed for the proper treatment for arthritis, the only reason it was discontinued was due to money concerns, and one 325mg aspirin, and 25mg Nortriptyline replaced the proper treatment, and I have given notice to the Infirmary/Ms. Lawson that the pain is greater than the treatment. Her response, "you may require a higher dose..." Ms. Lawson has over stepped her job description as Practice Manager and is giving medical advice, and this is an issue I put forth in my step-one, a grievance that Ms. Lawson herself answered.

Ms. Lawson is a stickler for an Offender to abide by the rules of UTMB, but she herself is in violation herself of Rules, Procedures and Policies of TDCJ-CID. Furthermore, I attached the I-128 Front (Revised 11-2010)

YOUR SIGNATURE IS REQUIRED ON BACK OF THIS FORM

(OVER)  
**165**  
Appendix G

Exhibit 1



the original I-60 dated 7.18.2017, but for some reason when the grievance was returned, the attachment was missing, so I have once again attached a copy of the I-60 so as to assist in the determination of this grievance.

Offender Signature:

*Regan Fair*

*\* ATTACHMENT, COPY I-60 \**

*200474*

Date: September 12th 2017

Grievance Response:

A review of the Step 1 Medical Grievance has been completed regarding your complaint to be given another medication for your arthritis pain. Also you complained to be treated properly and given the proper medication to treat the inflammation and pain of arthritis. You complained for the infirmary to revise policy on treating Offenders.

The review shows you are currently prescribed Aspirin which is a pain/anti-inflammatory medication. Also, the indication for Nortriptyline states it relief symptoms of depression and chronic pain. Appellate review of your Health Record shows on 07/27/2017, you were seen by the Mental Health (MH) provider and you requested to know whether Nortriptyline is a psychotropic medication. You were informed by the MH provider that Nortriptyline can be prescribed to ameliorate/alleviate symptoms of depression and can be prescribed by the medical department for medical reasons to include pain control. The documentation in your Health Record shows you have been afforded access to proper medical care.

If you feel your medical condition has changed or warrants further evaluation, submit a Sick Call Request to discuss your concerns with a licensed medical provider.

**STEP II MEDICAL GRIEVANCE PROGRAM  
OFFICE OF PROFESSIONAL STANDARDS  
TDCJ HEALTH SERVICES DIVISION**

Signature Authority:

Date:

*9/29/17*

Returned because: *\*Resubmit this form when corrections are made.*

- ☐ 1. Grievable time period has expired.
- ☐ 2. Illegible/Incomprehensible.\*
- ☐ 3. Originals not submitted. \*
- ☐ 4. Inappropriate/Excessive attachments.\*
- ☐ 5. Malicious use of vulgar, indecent, or physically threatening language.
- ☐ 6. Inappropriate.\*

CGO Staff Signature: \_\_\_\_\_

**OFFICE USE ONLY****Initial Submission**

CGO Initials: \_\_\_\_\_

Date UGI Recd: \_\_\_\_\_

Date CGO Recd: \_\_\_\_\_

(check one) ☐ Screened ☐ Improperly Submitted

Comments: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

**2<sup>nd</sup> Submission**

CGO Initials: \_\_\_\_\_

Date UGI Recd: \_\_\_\_\_

Date CGO Recd: \_\_\_\_\_

(check one) ☐ Screened ☐ Improperly Submitted

Comments: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

**3<sup>rd</sup> Submission**

CGO Initials: \_\_\_\_\_

Date UGI Recd: \_\_\_\_\_

Date CGO Recd: \_\_\_\_\_

(check one) ☐ Screened ☐ Improperly Submitted

Comments: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

Exhibit 1

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## Texas Department of Criminal Justice

STEP 1

OFFENDER  
GRIEVANCE FORMAccept As Original *ce*

Offender Name: Roger Fain TDCJ # 00700474  
 Unit: Wm.G.McConnell Housing Assignment: 19 Y-007  
 Unit where incident occurred: Unit Infirmary

## OFFICE USE ONLY

Grievance #: 2017171272  
 Date Received: 7.27.17  
 Date Due: 9.10.17  
 Grievance Code: C018  
 Investigator ID #: 19502226  
 Extension Date: \_\_\_\_\_  
 Date Ret'd to Offender: SEP 08 2017

You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? I-60 per CMHC Policy 21.1 Tanya Lawson, Manager When? 7.18.17

What was their response? Didn't address the issues, just informed me to fill out a sick-call request

What action was taken? None

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate

On July 18th 2017, I sent to Ms. Lawson, Practice Manager an I-60 per CMHC Policy 21.1 where it's necessary to attempt an informal resolution of the matter. I stated my problem, (see attachment), and Ms. Lawson's reply was I was given another medication for pain for my arthritis because the medical department seems to be of the opinion that the proper medicine for my pain for arthritis could cause me liver & kidney problems.

Naproxen is the prescribed medicine for arthritis pain & inflammation, I was receiving this, and it was doing the job, but after two 90 day cycles I was removed from this proper med to what Ms. Lawson and Medical Director Kwarteng stated is a better treatment, I am given one 325mg aspirin, and 25mg Nortriptyline, neither of these meds is for inflammation of the joints, which is swelling of the area, thus causing the pain, aspirin is an all purpose pain med, but Nortriptyline is in it's proper useage is for anti-depressant behavior, and by the attached I-60, Ms. Lawson wants me to have the dosage doubled. Again, neither of this new prescribed meds are for inflammation, which is the cause of the pain.

Furthermore, both Ms. Lawson, and Medical Director Kwarteng state that Naproxen would cause serious liver & kidney problems, yet at no time have either ever had me tested for liver problems, or kidney problems, their practice here on this Units Infirmary is to treat whatever ailment that an Offender states he has, without doing a proper work-up or physical examination of the problem. In my case I was seen about 18 months ago for a routine annual examination, I explained about pain in my feet, hands and elbow, without even looking at me, examing the areas in question x-rays were ordered, and later the x-rays revealed arthritic areas, but there was at no time any follow up evaluations or examinations, no hands on review of what I was complaining about.

I don't ride sick call, the medical department doesn't care that my condition is causing me



a great deal of pain & suffering, thus they are medically indifferent to my medical needs and treatment, the I-60 is required to begin the process of the grievance procedure, I have made an effort to resolve this matter with Ms. Lawson as is required by CMHC Policy 12.1, her reply was unsatisfactory, thus I will proceed with a Step-I.

**\* ATTACHED ORIGINAL I-60 \***

**Action Requested to resolve your Complaint.**

I wish to be treated properly, and given the proper medication to treat the inflammation and pain of arthritis, and I wish to have the infirmary to revise their policy on treating Offenders.

Offender Signature: [Signature] 200474

Date: July 24th 2017 (5:00 PM)

Grievance Response:

Offender Fain, aspirin is non-steroidal anti-inflammatory drug, or NSAID; exactly the same as Naproxen. It was the first NSAID to be used. Nortriptyline is commonly used to control long term-chronic pain, being far more effective than other classes of drugs for that use. Your creatinine level is high enough to make prescribing you Naproxen contra-indicated. Your Naproxen prescription expired on 4/2/17 and was not renewed. You had complete blood work on in April, prior to your Chronic Care Clinic that gave the provider the proper information to make his determination. I do not make clinical decisions. I merely attempt to educate/explain why a decision was made when a patient submits an informal grievance.

Signature Authority: [Signature]

Date: 8-31-17

If you are dissatisfied with the Step 1 response, you may submit a Step 2 (I-128) to the Unit Grievance Investigator within 15 days from the date of the Step 1 response. State the reason for appeal on the Step 2 Form.

Returned because: \*Resubmit this form when the corrections are made.

- ☐ 1. Grievable time period has expired.
- ☐ 2. Submission in excess of 1 every 7 days. \*
- ☐ 3. Originals not submitted. \*
- ☐ 4. Inappropriate/Excessive attachments. \*
- ☐ 5. No documented attempt at informal resolution. \*
- ☐ 6. No requested relief is stated. \*
- ☐ 7. Malicious use of vulgar, indecent, or physically threatening language. \*
- ☐ 8. The issue presented is not grievable.
- ☐ 9. Redundant, Refer to grievance # \_\_\_\_\_
- ☐ 10. Illegible/Incomprehensible. \*
- ☐ 11. Inappropriate. \*

UGI Printed Name/Signature: \_\_\_\_\_

Application of the screening criteria for this grievance is not expected to adversely affect the offender's health.

Medical Signature Authority: \_\_\_\_\_

I-127 Back (Revised 11-2010)

**OFFICE USE ONLY**

Initial Submission UGI Initials: \_\_\_\_\_

Grievance #: \_\_\_\_\_

Screening Criteria Used: \_\_\_\_\_

Date Recd from Offender: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

**2<sup>nd</sup> Submission** UGI Initials: \_\_\_\_\_

Grievance #: \_\_\_\_\_

Screening Criteria Used: \_\_\_\_\_

Date Recd from Offender: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

**3<sup>rd</sup> Submission** UGI Initials: \_\_\_\_\_

Grievance #: \_\_\_\_\_

Screening Criteria Used: \_\_\_\_\_

Date Recd from Offender: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_



## TEXAS DEPARTMENT OF CRIMINAL JUSTICE — INSTITUTIONAL DIVISION

## INMATE REQUEST TO OFFICIAL

REASON FOR REQUEST: (Please check one)

PLEASE ABIDE BY THE FOLLOWING CHANNELS OF COMMUNICATION. THIS WILL SAVE TIME, GET YOUR REQUEST TO THE PROPER PERSON, AND GET AN ANSWER TO YOU MORE QUICKLY.

- |  |   |
|--|---|
| <p>1. <input type="checkbox"/> Unit Assignment, Transfer (Chairman of Classification, Administration Building)</p> <p>2. <input type="checkbox"/> Restoration of Lost overtime (Unit Warden-if approved, it will be forwarded to the State Disciplinary Committee)</p> <p>3. <input type="checkbox"/> Request for Promotion in Class or to Trusty Class (Unit Warden- if approved, will be forwarded to the Director of Classification)</p> <p>4. <input type="checkbox"/> Clemency-Pardon, parole, early out-mandatory supervision (Board of Pardons and Paroles, 8610 Shoal Creek Blvd. Austin, Texas 78757)</p> | <p>5. <input type="checkbox"/> Visiting List (Asst. Director of classification, Administration Building)</p> <p>6. <input type="checkbox"/> Parole requirements and related information (Unit Parole Counselor)</p> <p>7. <input type="checkbox"/> Inmate Prison Record (Request for copy of record, information on parole eligibility, discharge date, detainers-Unit Administration)</p> <p>8. <input type="checkbox"/> Personal Interview with a representative of an outside agency (Treatment Division, Administration Building)</p> |
|--|---|

TO: Ms. Tanya Lawson, Practice Manager  
(Name and title of official)DATE: 07-12-17ADDRESS: McConnell Unit

SUBJECT: State briefly the problem on which you desire assistance.

\* PER CMHC Policy 12.1 \*Ms. Lawson,

I HAVE BEEN DIAGNOSED, AND DOCUMENTED FOR HAVING ARTHRITIS, L. FOOT, HANDS & ELBOW. I WAS PRESCRIBED 1000 MG NAPROXEN, AN ANTI-INFLAMMATORY, ABOUT 2 TO 90 DAY KOPS, MEDICAL DIRECTOR KWARTENG DISCONTINUED IT, GAVE ME 1 325MG ASPIRIN PER DAY, AND 1 25MG NORTRIPTYLINE, WHICH IS A ANTI-DEPRESSANT, A PSYCH DRUG. DUE TO LACK OF PROPER MEDICAL TREATMENT, AND MEDICAL INDIFFERENCE TO MY MEDICAL ISSUES, ARTHRITIS WITH SWELLING AND CONSTANT PAIN, AGGRAVATED BY THE FACT THAT I WORK IN THE GARMENT FACTORY 4 DAYS A WEEK, I FEEL I HAVE NO RECOURSE BUT TO GO THROUGH THE GRIEVANCE PROCEDURE TO EXHAUST MY ADMINISTRATIVE REMEDIES AND THUS TAKE THIS MATTER TO COURT.

Name: ROGER PAINENo: 700474Unit: McCONNELLLiving Quarters: 194-007Work Assignment: GARMENT FACTORY

DISPOSITION: (Inmate will not write in this space)

RECEIVED JUL 19 2017

Nortriptyline is used to treat long term chronic pain. It is more effective for this use than other pain medications and does not have the negative Exhibit 1 effects to your liver or kidneys. It typically takes 2-3 weeks to be effective and you may require a higher dose. please submit a sick call. TANYA LAWSON 169 7-19-17



**TEXAS  
DEPARTMENT OF CRIMINAL  
JUSTICE**

**OFFENDER GRIEVANCE PROGRAM**

**NOTICE**

All documentation that follows this sheet is restricted and confidential and is not to be released without the authorization of the administrator of offender grievances.

**RESTRICTED  
AND  
CONFIDENTIAL**



## GRIEVANCE INVESTIGATION WORKSHEET

Restricted &amp; Confidential

## GRIEVANCE OFFICE USE ONLY

Unit: <b>ML</b>	Investigator ID: <b>I-2226</b>	Date Initiated: <b>07/27/17</b>	Date Completed: <b>SEP 07 2017</b>	Date Due: <b>09/10/17</b>
Offender Name: <b>Fain, Roger</b>	TDCJ No: <b>700474</b>	Grievance No: <b>2017179272</b>		
Issue Code: <b>618</b>	EMERGENCY YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	ADA <input type="checkbox"/> Disciplinary <input type="checkbox"/> Medical <input checked="" type="checkbox"/>	Property <input type="checkbox"/> Religion <input type="checkbox"/> OPI Investigation <input type="checkbox"/>	Use of Force (UOF) <input type="checkbox"/> Harassment or Retaliation * <input type="checkbox"/> PREA <input type="checkbox"/>

\*Harassment or Retaliation of Use of the Grievance Procedure, Access to courts, or other Legal Activity

Note: Offenders are not allowed to review the grievance investigation worksheet at any time. For claims of sexual abuse, sexual assault, criminal acts by staff, Excessive or Unreported UOF, the investigation must be conducted by the Office of Inspector General (OIG) and the OIG Fact Sheet Completed.

Summary of Issue: (include date, time and location): Offender claims he needs to return to his prescription of naproxen because aspirin and nortriptyline do not reduce his swelling.

Requested Remedy: I wish to be treated properly and given the proper medication.

The following is to be completed and signed by the Investigating Official. Attach statements/support documentation, if applicable.

Summary of Fact Finding Activity: Sent to Medical

Suggested Response to Offender: Offender Fain, aspirin is a non-steroidal Anti-inflammatory drug, or NSAID; exactly the same as Naproxen. It was the first NSAID to be used. Nortriptyline is commonly used to control long-term chronic pain, being far more effective than other classes of drugs for that use. Your creatinine level is high enough to make prescribing you Naproxen contra-indicated. Your Naproxen prescription expired 4/26/17 and was not renewed.

OUTCOME CODE: **0** RESOLUTION CODE: **2.01** (Grievance Office Use Only)

Investigating Official completes the section below.

Printed Name: **TANYA LAWSON**  
Title: **SR. PRACTICE MANAGER**

Signature: Date: **8-31-17**

This grievance is being processed in an effort to resolve a problem through the established procedures identified in BP-03.77 and AD-03.82. It is expressly prohibited to subject the grievant, other offenders, or staff to any form of reprisal for the use of these procedures.

You had complete blood work done in April, prior to your chronic care clinic that gave the provider the proper information to make his determination. I do not make clinical decisions. I merely attempt to educate/explain why a decision was made when a patient submits an informal grievance.

Exhibit 1

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## Texas Department of Criminal Justice

# STEP 1

## OFFENDER GRIEVANCE FORM

## OFFICE USE ONLY

Grievance #: 2017179272  
 Date Received: 7.27.17  
 Date Due: 9.10.17  
 Grievance Code: 6018  
 Investigator ID #: 1950  
 Extension Date: \_\_\_\_\_  
 Date Retd to Offender: \_\_\_\_\_

Offender Name: Roger Fain TDCJ # 00700474Unit: Wm.G.McConnell Housing Assignment: 19 Y-007Unit where incident occurred: Unit Infirmary

You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? I-60 per CMHC Policy 21.1 Tanya Lawson, Manager When? 7.18.17What was their response? Didn't address the issues, just informed me to fill out a sick-call requestWhat action was taken? None

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate

On July 18th 2017, I sent to Ms. Lawson, Practice Manager an I-60 per CMHC Policy 21.1 where it's necessary to attempt an informal resolution of the matter. I stated my problem, (see attachment), and Ms. Lawson's reply was I was given another medication for pain for my arthritis because the medical department seems to be of the opinion that the proper medicine for my pain for arthritis could cause me liver & kidney problems.

Naproxen is the prescribed medicine for arthritis pain & inflammation, I was receiving this, and it was doing the job, but after two 90 day cycles I was removed from this proper med to what Ms. Lawson and Medical Director Kwarteng stated is a better treatment, I am given one 325mg aspirin, and 25mg Nortriptyline, neither of these meds is for inflammation of the joints, which is swelling of the area, thus causing the pain, aspirin is an all purpose pain med, but Nortriptyline is in it's proper useage is for anti-depressant behavior, and by the attached I-60, Ms. Lawson wants me to have the dosage doubled. Again, neither of this new prescribed meds are for inflammation, which is the cause of the pain.

Furthermore, both Ms. Lawson, and Medical Director Kwarteng state that Naproxen would cause serious liver & kidney problems, yet at no time have either ever had me tested for liver problems, or kidney problems, their practice here on this Units Infirmary is to treat whatever ailment that an Offender states he has, without doing a proper work-up or physical examination of the problem. In my case I was seen about 18 months ago for a routine annual examination, I explained about pain in my feet, hands and elbow, without even looking at me, examing the areas in question x-rays were ordered, and later the x-rays revealed arthritic areas, but there was at no time any follow up evaluations or examinations, no hands on review of what I was complaining about.

I don't ride sick call, the medical department doesn't care that my condition is causing me

Exhibit 1

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Offender Fain, aspirin is non-steroidal anti-inflammatory drug, or NSAID; exactly the same as Naproxen. It was the first NSAID to be used. Nortriptyline is commonly used to control long term-chronic pain, being far more effective than other classes of drugs for that use. Your creatinine level is high enough to make prescribing you Naproxen contra-indicated. Your Naproxen prescription expired on 4/2/17 and was not renewed. You had complete blood work on in April, prior to your Chronic Care Clinic that gave the provider the proper information to make his determination. I do not make clinical decisions. I merely attempt to educate/explain why a decision was made when a patient submits an informal grievance.



# Grievance Investigation Worksheet

Restricted & Confidential

<b>Grievance Office Use Only</b>		<b>Step 1</b>	
		<b>Step 2 X</b>	
Unit: ML - MCCONNELL Investigator ID: RKE3160 Date Initiated: 9/19/17		Date Completed: 9/28/17 Due Date: 10/29/17	
Offender Name: FAIN, ROGER TDCJ No: 00700474		Grievance No: 2017179272	
Issue Code: 618	Emergency Yes ( ) No (X)	ADA ( ) Disciplinary ( ) Medical (X)	Property ( ) Religion ( ) OPI Investigation ( ) PREA ( ) Use of Force (UOF) ( ) Harassment or Retaliation * ( )
* Harassment or Retaliation for use of the Grievance Procedure, Access to Courts, or other legal activity			
NOTE: Offenders are not allowed to review the grievance investigation worksheet at any time. For claims of sexual assault, sexual abuse, criminal acts by staff, Excessive or Unreported UCF, the investigation must be conducted by the Office of the Inspector General (OIG) and the OIG Fact Sheet completed.			
Summary of Issue: (include date, time and location.)		See Step 1 OG-01 Grievance Investigation Worksheet	
Offender Fain complained he was given another medication for pain for his arthritis because the medical department seems to be of the opinion that the proper medicine for his arthritis pain could cause liver and kidney problems. He complained to be treated properly and given the proper medication to treat the inflammation and pain of arthritis. Also, he complained for the infirmary to revise their policy on treating Offenders. ///			
Requested Remedy:		See Step 1 OG-01 Grievance Investigation Worksheet.	

The following is to be completed and signed by the Investigating Official. Attach Statements/Support Documentation, if applicable.

## Summary of Fact Finding Activity:

Concur with findings from Step 1. ///

## Suggested Response to Offender:

A review of the Step 1 Medical Grievance has been completed regarding your complaint to be given another medication for your arthritis pain. Also you complained to be treated properly and given the proper medication to treat the inflammation and pain of arthritis. You complained for the infirmary to revise policy on treating Offenders. ///The review shows you are currently prescribed Aspirin which is a pain/anti-inflammatory medication. Also, the indication for Nortriptyline states it relief symptoms of depression and chronic pain. Appellate review of your Health Record shows on 07/27/2017, you were seen by the Mental Health (MH) provider and you requested to know whether Nortriptyline is a psychotropic medication. You were informed by the MH provider that Nortriptyline can be prescribed to ameliorate/alleviate symptoms of depression and can be prescribed by the medical department for medical reasons to include pain control. The documentation in your Health Record shows you have been afforded access to proper medical care. ///If you feel your medical condition has changed or warrants further evaluation, submit a Sick Call Request to discuss your concerns with a licensed medical provider.

OUTCOME CODE: DENIED/NO ACTION IS WARRANTED (Grievance Office Use Only)

RESOLUTION CODE: 2.02

Investigating Official completes the section below.

Printed Name: KELLY, ROSALYN

Signature: Rosalyn Kelly, RN

Title: RN II

Date: 9/29/17

This grievance is being processed in an effort to resolve a problem through the established procedures identified in BP-03.77 and AD-03.82. It is expressly prohibited to subject the grievant, other offenders, or staff to any form of reprisal for the use of these procedures.

Dale Dorman, RN  
Manager III  
TDCJ Health Services





## Texas Department of Criminal Justice

## STEP 2

OFFENDER  
GRIEVANCE FORM

Offender Name: Roger Fain ID# 00700474  
 Unit: McConnell Housing Assignment: 19 Building Y-Dorm  
 Unit where incident occurred: 19 Building Y-Dorm

OFFICE USE ONLY	
Grievance #	<u>2018025778</u>
File Date	<u>DEC 20 2017</u>
Defendant Date	<u>DEC 28 2017</u>
Date Due	<u>1-29</u>
Grievance #	<u>815,899</u>
Appellate Date	
Settlement Date	

You must attach the completed Step 1 Grievance form to this form. If the grievance is not accepted, you may not appeal to Step 2. If the grievance is accepted, you may not appeal to Step 2.

Give reason for appeal (Be Specific). *See grievance # 2018025778*

It is obvious that the Warden's response is just a blow-off of the issue presented to him as well as many others. When an issue is brought forth with numerous Offender's stating the same thing, not only from the same Dorm, but from others and the Grievance Investigator finds that the "Investigation Failed To Produce Substantial Evidence To Support Your Allegations..." some thing is seriously flawed with the investigation of said claim, and the investigator who fails to properly investigate the issues brought forth.

It is apparent to me that the investigator's investigation was just to ask the Officer involved in the incident grieved if the matter is true or not??? Name one Officer working for TDCJ-CID who would admit wrong doing in any type of investigation. When asked it is apparent Officer Martinez stated he did nothing wrong, that he was only doing his assigned job...

My Step-I states a number of claims that are all from the same incident, and since this Office only recognizes "One Issue Per Grievance" here is my issue I wish to put forth, the Grievance Procedure On The McConnell Unit Is A Joke, and that is the gist of my issue.



Offender Signature: \_\_\_\_\_

Date: December 16th 2017

Grievance Response: \_\_\_\_\_

Signature Authority: \_\_\_\_\_

Date: \_\_\_\_\_

Returned because: \*Resubmit this form when corrections are made.

- ☐ 1. Grievable time period has expired.
- ☐ 2. Illegible/Incomprehensible.\*
- ☒ 3. Originals not submitted.\* *Signature*
- ☐ 4. Inappropriate/Excessive attachments.\*
- ☐ 5. Malicious use of vulgar, indecent, or physically threatening language.
- ☐ 6. Inappropriate.\*

CGO Staff Signature: \_\_\_\_\_

*W. Pelotie*

*[Signature]*

**OFFICE USE ONLY****Initial Submission**CGO Initials: *UP*Date U/G Recd: *12-20*Date CGO Recd: *12-28-17*(check one) ☒ Screened ☐ Improperly SubmittedComments: *\* 3 Signature*Date Returned to Offender: *1-23-18***2<sup>nd</sup> Submission**

CGO Initials: \_\_\_\_\_

Date U/G Recd: \_\_\_\_\_

Date CGO Recd: \_\_\_\_\_

(check one) ☐ Screened ☐ Improperly Submitted

Comments: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

**3<sup>rd</sup> Submission**

CGO Initials: \_\_\_\_\_

Date U/G Recd: \_\_\_\_\_

Date CGO Recd: \_\_\_\_\_

(check one) ☐ Screened ☐ Improperly Submitted

Comments: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

**Exhibit 1****176**





## Texas Department of Criminal Justice

# STEP 1 OFFENDER GRIEVANCE FORM

## OFFICE USE ONLY

Grievance #: 2018025778  
 Date Received: 10.18.17  
 Date Due: 11.27.17  
 Grievance Code: 815  
 Investigator ID #: 1900 2475  
 Extension Date: 1-6  
 Date Retd to Offender: DEC 15 2017

Offender Name: ROGER FAHM TDCJ # 00700474  
 Unit: McCONNELL Housing Assignment: 19 Y 007  
 Unit where incident occurred: McCONNELL, DORM 19 Y

You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? ASKED FOR RANIK When? 10-17-17  
 What was their response? RANIK WAS NOT CALLED, IN FACT IT WAS DENIED  
 What action was taken? NONE

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate

AT APPROXIMATELY 11:25 PM, 10-17-17, OFFICER MARTINEZ, COLL BEGAN TO WAKE ALL OFFENDERS ON Y-DORM, AND STATED THAT THEY HAD TO STAND AT THE END OF THEIR CUBICLES, AND HAND HIM THEIR ID CARDS, FAILING TO DO SO, OFFICER MARTINEZ MADE AN ISSUE OUT OF IT BY HAVING ANOTHER OFFICER (NEW BOO, NAME UNKNOWN), INDICATE THE BUNK NUMBER ON ANOTHER PIECE OF PAPER.

THE CAMERAS WILL SHOW THAT ALL OFFENDERS COMPLIED WITH WHAT APPEARS TO BE AN UNLAWFUL ORDER, BUT FAILING TO INSTANTLY COMPLY WITH OFFICER MARTINEZ'S ORDER GOT YOUR BUNK NUMBER WRITTEN DOWN, WITH THE THREAT OF A DISCIPLINARY CASE.

OFFICER MARTINEZ IN HIS UNAUTHORIZED PASTOR COURT BY WAKING OFFICERS AFTER 11:00 PM VIOLATES PD-22, RULES #7, #20, (OFFICER MARTINEZ IS THE ONLY OFFICER WHO WAKES OFFENDERS TO PRESENT THEIR ID'S), #23 (IN THIS CASE DENYING OFFENDER'S ADEQUENT SLEEP), #37 (THIS BY EXHIBITING DISRUPTIVE BEHAVIOR IN THE WORKPLACE),

OFFICER MARTINEZ'S BEHAVIOR IS CAUSING A HOSTILE WORK ENVIRONMENT FOR OTHER OFFICERS BY CAUSING OFFENDERS TO BE WAKENED BASED ON A RULE, POLICY, PROCEDURE THAT ONLY OFFICER MARTINEZ KNOWS, APPLIES, OR ENFORCES, OFFICERS ARENT



PERMITTED TO IMPLEMENT A POLICY THAT DOESN'T EXIST. THE OFFICER HAS THE OPPORTUNITY TO HAVE OFFENDERS STAND TO PRESENT ID'S AT THE 8:00 PM ROSTER COUNT, WHEN OFFENDERS ARE STILL AWAKE.

OFFICER MARTINEZ APPEARS TO TAKE PLEASURE IN WAKING UP SLEEPING OFFENDERS NOT ONLY FOR COUNT/ID PRESENTATION BUT HIS POLICY OF PASSING OUT MAIL AFTER LIGHTS OUT. THIS ISN'T THE FIRST TIME OFFICER MARTINEZ HAS BEEN GRIEVED FOR THIS SAME PROCEDURE, AND IT IS DOUBTFUL IT WILL BE RESOLVED BY THIS PROCEDURE OF DOING A GRIEVANCE.

Action Requested to resolve your Complaint.

OFFENDERS WORK EARLY AND SLEEP IS NECESSARY, ROSTER COUNT IS CONDUCTED A 8:00 PM, ID'S CAN BE "PERSONALLY" PRESENTED AT THAT TIME

Offender Signature: John Fain (SUBMITTED @ 3:00 AM) Date: 10-17-17

Grievance Response:

Your claim has been reviewed. Investigation failed to produce substantiated evidence to support your allegations against Officer Martinez. Count procedures are a very important part of security measures, therefore, it is very important that all offenders are accounted for. Officer Martinez is performing his job duties accordingly. No further action warranted by this office.

Signature Authority:

C. Furr

Warden C. Furr

Date: DEC 13 2017

If you are dissatisfied with the Step 1 response, you may submit a Step 2 (I-128) to the Unit Grievance Investigator within 15 days from the date of the Step 1 response. State the reason for appeal on the Step 2 Form.

Returned because: \*Resubmit this form when the corrections are made.

- ☐ 1. Grievable time period has expired.
- ☐ 2. Submission in excess of 1 every 7 days. \*
- ☐ 3. Originals not submitted. \*
- ☐ 4. Inappropriate/Excessive attachments. \*
- ☐ 5. No documented attempt at informal resolution. \*
- ☐ 6. No requested relief is stated. \*
- ☐ 7. Malicious use of vulgar, indecent, or physically threatening language \*
- ☐ 8. The issue presented is not grievable.
- ☐ 9. Redundant, Refer to grievance # \_\_\_\_\_
- ☐ 10. Illegible/Incomprehensible. \*
- ☐ 11. Inappropriate. \*

UGI Printed Name/Signature: \_\_\_\_\_

Application of the screening criteria for this grievance is not expected to adversely affect the offender's health.

Medical Signature Authority: \_\_\_\_\_

Exhibit 1

### OFFICE USE ONLY

Initial Submission	UGI Initials: _____
Grievance #:	_____
Screening Criteria Used:	_____
Date Recd from Offender:	_____
Date Returned to Offender:	_____
2 <sup>nd</sup> Submission	UGI Initials: _____
Grievance #:	_____
Screening Criteria Used:	_____
Date Recd from Offender:	_____
Date Returned to Offender:	_____
3 <sup>rd</sup> Submission	UGI Initials: _____
Grievance #:	_____
Screening Criteria Used:	_____
Date Recd from Offender:	_____
Date Returned to Offender:	_____

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**TEXAS  
DEPARTMENT OF CRIMINAL  
JUSTICE**

**OFFENDER GRIEVANCE PROGRAM**

**NOTICE**

All documentation that follows this sheet is restricted and confidential and is not to be released without the authorization of the administrator of offender grievances.

**RESTRICTED  
AND  
CONFIDENTIAL**

Exhibit 1

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## GRIEVANCE INVESTIGATION WORKSHEET

Restricted &amp; Confidential

GRIEVANCE OFFICE USE  
ONLY

STEP 1 X

STEP 2

Unit: ML Investigator ID: I-2475 Date Initiated: 10/18/17 Date Completed: 12/13/17 Date Due: 11/27/17  
 Offender Name: Fain, Roger TDCJ No: 00700474 Grievance Number: 2018025778

Issue Code:	EMERGENCY	ADA	( )	Property	( )	Use of Force (UOF)	( )
815	YES ( )	Disciplinary	( )	Religion	( )	Harassment or Retaliation*	( )
	NO (X)	Medical	( )	OPI Investigation	( )	PREA	( )

\*Harassment or Retaliation of Use of the Grievance Procedure, Access to Courts, or other Legal Activity

Note: Offenders are not allowed to review the grievance investigation worksheet at any time. For claims of sexual abuse, sexual assault, criminal acts by staff, Excessive or Unreported UOF, the investigation must be conducted by the Office of Inspector General (OIG) and the OIG Fact Sheet completed.

Summary of Issue: (Include date, time and location):

See Attached Narrative

Requested Remedy:

The following is to be completed and signed by the Investigating Official. Attach statements/supporting documentation, if applicable.

Summary of Fact Finding Activity:

Sent to: Ofc. V. Martinez 2A/GP

SM - 01.03 Count Procedures

Suggested Response to Offender:

Your claim has been reviewed. Investigation failed to produce substantiated evidence to support your allegations against Officer Martinez. Count procedures are a very important part of security measures, therefore, it is very important that all offenders are accounted for. Officer Martinez is performing his job duties accordingly. No further action warranted by this office.

OUTCOME CODE: D RESOLUTION CODE: 2.01

Investigating official completes the section below:

Printed Name:

M. Lugo

Signature:

M. Lugo

Title:

Investigator III

Date:

12/13/17

This grievance is being processed in an effort to resolve a problem through the established procedures identified in BP-03.77 and AD-0382. It is expressly prohibited to subject the grievant, other offenders, or staff to any form of reprisal for the use of these procedures.

Exhibit 1

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## GRIEVANCE INVESTIGATION WORKSHEET

## Official Statement

Unit: ML Staff Name: Ofc. V. Martinez 2A/GP Grievance #: 2018025778 Date: 10/18/17  
 Offender Name: Fain, Roger TDCJ#: 00700474 Housing Location: 19Y-007

In accordance with BP 03.77, you are required to participate in this investigation as noted. Address each allegation thoroughly. Do not respond with indefinite answers such as "I don't know" or "I have no knowledge of". If you have no knowledge, explain the reason why (e.g., I was on vacation; I was not assigned there, etc.) Your answers are to be factual, professional, and complete. Do not include opinions or unrelated comments. Remember, the Executive Director, Office of the Inspector General (OIG), Attorney General's Office and State and Federal Court Officials may review your response. All grievances are confidential and may not be discussed between you and the offender or with other individuals. You are expected to return this investigation within 10 working days of receipt. Additional time may be requested by contacting the grievance investigator. Sign and date the form in the designated locations when completed and return it to the Unit Grievance Office. If you were provided a narrative copy of the grievance, it must also be returned to the Unit Grievance Office. The grievance may not be duplicated or shared with the accused staff member.

## Please Provide the Following Documents

- |  |   |
|--|---|
| <input type="checkbox"/> Participant(s) Statement                    | <input type="checkbox"/> Other                                      |
| <input type="checkbox"/> Witness(es) Statement (signed)              | <input type="checkbox"/> Staff or Offender Protection Investigation |
| <input type="checkbox"/> Activity Logs (Recreation, Shower, Feeding) | <input type="checkbox"/> Property Inventory Forms                   |
| <input type="checkbox"/> Shift Roster                                | <input type="checkbox"/> Property Logs                              |
| <input type="checkbox"/> Ingress/Egress Log                          |   |
| <input type="checkbox"/> Property Confiscation Form                  |   |

## ALLEGATIONS:

Please see attached and address all allegations.

EMPLOYEE STATEMENT: During a proper roster count, I order offenders to come to the end of the bunk to present their id for a proper roster count. If they fail to comply I do write a disciplinary case for disobeying orders. I do not take pleasure in waking up offenders but have to because it's how it's supposed to be done to properly identify offenders.

Martinez, V  
 PRINTED NAME

V. Martinez  
 SIGNATURE

10/31/17  
 DATE

CO III  
 RANK/TITLE

2A GP / security  
 SHIFT/DEPARTMENT

SUPERVISOR COMMENTS: Officer Martinez did conduct a proper roster count by waking the offenders up to verify their identity.

K. Zambardo  
 PRINTED NAME

K. Zambardo  
 SIGNATURE

10/31/17  
 DATE

K. Zambardo  
 RANK/TITLE

2A GP  
 SHIFT/DEPARTMENT







You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? ASKED FOR RANIK When? 10-17-17

What was their response? RANIK WAS NOT CALLED, IN FACT IT WAS DENIED

What action was taken? NONE

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate

AT APPROXIMATELY 11:25 PM, 10-17-17, OFFICER MARTINEZ, COIT BEGAN TO WAKE ALL OFFENDERS ON Y-DORM, AND STATED THAT THEY HAD TO STAND AT THE END OF THEIR CUBICLES, AND HAND HIM THEIR ID CARDS, FAILING TO DO SO, OFFICER MARTINEZ MADE AN ISSUE OUT OF IT BY HAVING ANOTHER OFFICER (NEW BOO, NAME UNKNOWN), INDICATE THE BUNK NUMBER ON ANOTHER PIECE OF PAPER.

THE CAMERAS WILL SHOW THAT ALL OFFENDERS COMPLIED WITH WHAT APPEARS TO BE AN UNLAWFUL ORDER, BUT FAILING TO INSTANTLY COMPLY WITH OFFICER MARTINEZ'S ORDER GOT YOUR BUNK NUMBER WRITTEN DOWN, WITH THE THREAT OF A DISCIPLINARY CASE.

OFFICER MARTINEZ IN HIS UNAUTHORIZED POSTER COURT BY WAKING OFFICERS AFTER 11:00 PM VIOLATES PD-22, RULES #7, #20, (OFFICER MARTINEZ IS THE ONLY OFFICER WHO WAKES OFFENDERS TO PRESENT THEIR ID'S), #33 (IN THIS CASE DENYING OFFENDERS' ADEQUENT SLEEP), #37 (THIS BY EXHIBITING DISRUPTIVE BEHAVIOR IN THE WORKPLACE),

OFFICER MARTINEZ'S BEHAVIOR IS CAUSING A HOSTILE WORK ENVIRONMENT FOR OTHER OFFICERS BY CAUSING OFFENDERS TO BE WAKENED BASED ON A RULE, POLICY, PROCEDURE THAT ONLY OFFICER MARTINEZ KNOWS, APPLIES, OR ENFORCES, OFFICERS AREN'T

I-127 Front (Revised 11-2010)

YOUR SIGNATURE IS REQUIRED ON BACK OF THIS FORM

(OVER)

Appendix F

PERMITTED TO IMPLEMENT A POLICY THAT DOESN'T EXIST. THE OFFICER HAS THE OPPORTUNITY TO HAVE OFFENDERS STAND TO PRESENT ID'S AT THE 8:00 PM POSTER COURT, WHEN OFFENDERS ARE STILL AWAKE.

OFFICER MARTINEZ APPEARS TO TAKE PLEASURE IN WAKING UP SLEEPING OFFENDERS NOT ONLY FOR COURT/ID PRESENTATION BUT HIS POLICY OF PASSING OUT MAIL AFTER LIGHTS OUT. THIS ISN'T THE FIRST TIME OFFICER MARTINEZ HAS BEEN GRIEVED FOR THIS SAME PROCEDURE, AND IT IS DOUBTFUL IT









Step 1	<input checked="" type="checkbox"/>	Grievance #	Offender Name	TDCJ #	Unit
Step 2	<input type="checkbox"/>	2018025738	Gain, Roger	700474	ML



## Texas Department of Criminal Justice

### NOTICE OF EXTENSION

#### Offender Grievance Office

In accordance with the procedures outlined in BP-03.77, "Offender Grievances," and AD-03.82, "Management of Offender Grievances," you are hereby notified that additional time is necessary to complete the investigation of your:

**Step 1 Grievance:** (check the applicable box)

- ☐ An additional 30 days is needed for appropriate response to your disciplinary appeal.
- ☒ An additional 40 days is needed for appropriate response to your grievance.
- ☐ An additional 45 days is needed for appropriate response to your medical Step 1 grievance.

**Step 2 Grievance:** (check the applicable box)

- ☐ An additional 30 days is needed for appropriate response to your disciplinary appeal.
- ☐ An additional 40 days is needed for appropriate response to your Step 2 grievance.
- ☐ An additional 45 days is needed for appropriate response to your medical Step 2 grievance.

K. Fuentes, Clerk II

Name and Title

11/14/17

Date

Original – Send to the Offender

Copy – Attach to the Grievance







**Texas Department of Criminal Justice**  
**STEP 2** **OFFENDER**  
**GRIEVANCE FORM**

Offender Name: Roger Fain TDCJ # 00700474  
 Unit: McConnell Housing Assignment: 19 Y-007  
 Unit where incident occurred: 19 Dorm - McConnell Unit

**OFFICE USE ONLY**

Grievance #: 2017 1921166  
 UGI Recd Date: OCT 02 2017  
 HQ Recd Date: OCT 05 2017  
 Date Due: NOV 11 2017  
 Grievance Code: 815  
 Investigator ID#: 2197  
 Extension Date: \_\_\_\_\_

*You must attach the completed Step 1 Grievance that has been signed by the Warden for your Step 2 appeal to be accepted. You may not appeal to Step 2 with a Step 1 that has been returned unprocessed.*

**Give reason for appeal (Be Specific).** *I am dissatisfied with the response at Step 1 because...*

Warden C. Furr, failed to address the actual issue(s) of my Step-1 Grievance, and that was the Officer conducting count was waking people up, and having them stand at the end of their cubicle and present their ID to the Officer. This might not violate any standard rule of TDCJ-CID, but it clearly establishes that the Officer was intentionally doing something that is not apart of the standard count procedure.

Furthermore, when I asked to see rank, which I understand is in the rule book, the Officer stated that I needed to address the matter to rank, yet rank was never called, the issue of waking Offenders up at 11:30PM to stand and present their ID's could not be addressed by a ranking Officer, thus the matter was ignored by the Officers who should have been available to deal with the matter.

It seems that ever since the lawsuit against the lights being turned on, not allowing Offenders the proper amount of sleep, the Unit has gone out of its way to make a statement to the Offender population just who actually runs the Unit and implements the rules/policies/procedures even when no such rule(s) exists. Harassment, Retaliation and Abuse Of Authority do come to mind.



Offender Signature: \_\_\_\_\_

Date: December 15 2017

Grievance Response: \_\_\_\_\_

Submit one issue per grievance. Your complaint has been noted and was appropriately addressed at Step One. No further action warranted.

P. Chapa, Assistant Regional Director

Signature Authority: \_\_\_\_\_

Date: 11/2/2017Returned because: *\*Resubmit this form when corrections are made.*

- ☐ 1. Grievable time period has expired.
- ☐ 2. Illegible/Incomprehensible.\*
- ☐ 3. Originals not submitted. \*
- ☐ 4. Inappropriate/Excessive attachments.\*
- ☐ 5. Malicious use of vulgar, indecent, or physically threatening language.
- ☐ 6. Inappropriate.\*

CGO Staff Signature: \_\_\_\_\_

**OFFICE USE ONLY****Initial Submission**

CGO Initials: \_\_\_\_\_

Date UGI Recd: \_\_\_\_\_

Date CGO Recd: \_\_\_\_\_

(check one) ☐ Screened ☐ Improperly Submitted

Comments: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

**2<sup>nd</sup> Submission**

CGO Initials: \_\_\_\_\_

Date UGI Recd: \_\_\_\_\_

Date CGO Recd: \_\_\_\_\_

(check one) ☐ Screened ☐ Improperly Submitted

Comments: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

**3<sup>rd</sup> Submission**

CGO Initials: \_\_\_\_\_

Date UGI Recd: \_\_\_\_\_

Date CGO Recd: \_\_\_\_\_

(check one) ☐ Screened ☐ Improperly Submitted

Comments: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

Exhibit 1

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## Texas Department of Criminal Justice

# STEP 1

## OFFENDER GRIEVANCE FORM

## OFFICE USE ONLY

Grievance #: 2017192166  
 Date Received: 8.21.17  
 Date Due: 9.30.17  
 Grievance Code: 85  
 Investigator ID #: 1950 J2209  
 Extension Date: \_\_\_\_\_  
 Date Retd to Offender: SEP 27 2017

Offender Name: ROGER FAIR TDCJ # 700474  
 Unit: McCONNELL Housing Assignment: 19 Y-007  
 Unit where incident occurred: McCONNELL

You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? REQUESTED TO SEE RANK, IGNORED When? 11:30 AM 09/20/17  
 What was their response? OFFICER MARTINEZ STATED TO TALK TO RANK, NOT HIM  
 What action was taken? DENIED ACCESS TO RANK, WAKE UP TO "HAND ID TO OFFICER"

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate

AUGUST 20TH 2017, AT 11:30 PM, OFFICER MARTINEZ WAS GOING BUNK TO BUNK WAKING EACH OFFENDER TO HAVE THEM STAND AT THE FOOT OF THE BUNK TO BE COUNTED. OFFICER MARTINEZ STATED "WAKE UP, HAVE YOUR ID IN HAND, AND STAND AT THE END OF THE BUNK, YOU CAN GO BACK TO SLEEP."

OFFICER MARTINEZ'S ACTIONS ABOUT UNIT POLICY, THESE ACTIONS ARE OFFICER MARTINEZ'S INTERPRETATION OF RULES TO HARASS, TO WAKE UP, AND DENY OFFENDERS OF WHAT SLEEP THEY CAN GET IN THIS HEAT, OFFICER MARTINEZ'S ACTIONS ARE UNPROFESSIONAL, IRRESPONSIBLE, AND IN VIOLATION OF TDCJ-CID POLICY CONCERNING SLEEP DEPRIVATION.

I WAS AWAKEN BY THE 8:30 PM COUNT OFFICER WHEN HE WAS TAKING A NAMED ID ROSTER COUNT.

IT ALWAYS SEEMS IT IS SOLELY THIS OFFICER WHO HARASSES OFFENDERS (MARTINEZ) ABOUT WAKING UP TO PRESENT ID'S. THIS ISN'T A MATTER OF A "WELLNESS CHECK" THIS IS JUST HIS WAY OF HARASSING OFFENDERS



## Action Requested to resolve your Complaint.

OFFICER MARTINEZ NEEDS TO BE EXPLAINED THE POLICY ABOUT ALLOWING 6 UNINTERRUPTED HOURS OF SLEEP, ROSTER COUNT WAS DONE AT 8.30 PM

Offender Signature:

Roger Tam

Date:

08-20-17

Grievance Response:

Your complaint has been noted. Staff statement refute your allegations, advising that count procedures were conducted in accordance to policy. Policy stipulates that the correctional officer shall verify they are counting a living, breathing offender, not an object. Correctional officers shall turn on count lights, dayroom lights or use flashlights to assist in conducting an accurate count at nighttime, if needed; furthermore, officers shall positively identify each offender using the offenders ID card. No policy violations occurred. No further action warranted by this office.

Signature Authority:

C. Furr

Warden C. Furr

Date:

SEP 26 2017

If you are dissatisfied with the Step 1 response, you may submit a Step 2 (I-128) to the Unit Grievance Investigator within 15 days from the date of the Step 1 response. State the reason for appeal on the Step 2 Form.

Returned because:

\*Resubmit this form when the corrections are made.

- ☐ 1. Grievable time period has expired.
- ☐ 2. Submission in excess of 1 every 7 days. \*
- ☐ 3. Originals not submitted. \*
- ☐ 4. Inappropriate/Excessive attachments. \*
- ☐ 5. No documented attempt at informal resolution. \*
- ☐ 6. No requested relief is stated. \*
- ☐ 7. Malicious use of vulgar, indecent, or physically threatening language. \*
- ☐ 8. The issue presented is not grievable.
- ☐ 9. Redundant, Refer to grievance # \_\_\_\_\_
- ☐ 10. Illegible/Incomprehensible. \*
- ☐ 11. Inappropriate. \*

UGI Printed Name/Signature: \_\_\_\_\_

Application of the screening criteria for this grievance is not expected to adversely affect the offender's health.

Medical Signature Authority: \_\_\_\_\_

I-127 Back (Revised 11-2010)

Exhibit 1

## OFFICE USE ONLY

Initial Submission

UGI Initials: \_\_\_\_\_

Grievance #: \_\_\_\_\_

Screening Criteria Used: \_\_\_\_\_

Date Recd from Offender: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

2<sup>nd</sup> Submission

UGI Initials: \_\_\_\_\_

Grievance #: \_\_\_\_\_

Screening Criteria Used: \_\_\_\_\_

Date Recd from Offender: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

3<sup>rd</sup> Submission

UGI Initials: \_\_\_\_\_

Grievance #: \_\_\_\_\_

Screening Criteria Used: \_\_\_\_\_

Date Recd from Offender: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

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Appendix F

**TEXAS  
DEPARTMENT OF CRIMINAL  
JUSTICE**

**OFFENDER GRIEVANCE PROGRAM**

**NOTICE**

All documentation that follows this sheet is restricted and confidential and is not to be released without the authorization of the administrator of offender grievances.

**RESTRICTED  
AND  
CONFIDENTIAL**

Exhibit 1

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## GRIEVANCE INVESTIGATION WORKSHEET

Restricted &amp; Confidential

GRIEVANCE OFFICE USE  
ONLY

STEP 1 X

STEP 2

Unit: ML Investigator ID: 1 2229 Date Initiated: 08/21/17 Date Completed: 09/21/17 Date Due: 09/30/17  
 Offender Name: Fain, Roger TDCJ No: 700474 Grievance Number: 2017192166

Issue Code:	EMERGENCY	ADA	( )	Property	( )	Use of Force (UOF)	( )
815	YES ( )	Disciplinary	( )	Religion	( )	Harassment or Retaliation*	( )
	NO (X)	Medical	( )	OPI Investigation	( )	PREA	( )

\*Harassment or Retaliation of Use of the Grievance Procedure, Access to Courts, or other Legal Activity

Note: Offenders are not allowed to review the grievance investigation worksheet at any time. For claims of sexual abuse, sexual assault, criminal acts by staff, Excessive or Unreported UOF, the investigation must be conducted by the Office of Inspector General (OIG) and the OIG Fact Sheet completed.

## Summary of Issue: (Include date, time and location):

See Attached Narrative

## Requested Remedy:

Officer Martinez needs to be explained the policy allowing 6 uninterrupted hours of sleep, roster count was done at 8:30pm.

The following is to be completed and signed by the Investigating Official. Attach statements/supporting documentation, if applicable.

## Summary of Fact Finding Activity:

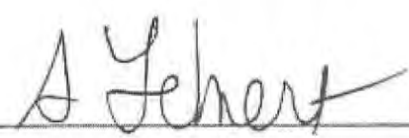
Sent to: Ofc. A. Martinez 2AGP

## Suggested Response to Offender:

Your complaint has been noted. Staff statement refute your allegations, advising that count procedures were conducted in accordance to policy. Policy stipulates that the correctional officer shall verify they are counting a living, breathing offender, not an object. Correctional officers shall turn on count lights, dayroom lights or use flashlights to assist in conducting an accurate count at nighttime, if needed; furthermore, officers shall positively identify each offender using the offenders ID card. No policy violations occurred. No further action warranted by this office.

OUTCOME CODE: D RESOLUTION CODE: 201

Investigating official completes the section below:

Printed Name: SHEILA R. LEHNERTSignature: Title: UGIDate: 09/21/17

This grievance is being processed in an effort to resolve a problem through the established procedures identified in BP-03.77 and AD-0382. It is expressly prohibited to subject the grievant, other offenders, or staff to any form of reprisal for the use of these procedures.

Exhibit 1

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## GRIEVANCE INVESTIGATION WORKSHEET

## Official Statement

Unit: ML Staff Name: Ofc. Martinez 2AGP Grievance #: 2017192166 Date: 08/21/17  
 Offender Name: Fain, Roger TDCJ#: 700474 Housing Location: 19Y-7

In accordance with BP 03.77, you are required to participate in this investigation as noted. Address each allegation thoroughly. Do not respond with indefinite answers such as "I don't know" or "I have no knowledge of". If you have no knowledge, explain the reason why (e.g., I was on vacation; I was not assigned there, etc.) Your answers are to be factual, professional, and complete. Do not include opinions or unrelated comments. Remember, the Executive Director, Office of the Inspector General (OIG), Attorney General's Office and State and Federal Court Officials may review your response. All grievances are confidential and may not be discussed between you and the offender or with other individuals. You are expected to return this investigation within 10 working days of receipt. Additional time may be requested by contacting the grievance investigator. Sign and date the form in the designated locations when completed and return it to the Unit Grievance Office. If you were provided a narrative copy of the grievance, it must also be returned to the Unit Grievance Office. The grievance may not be duplicated or shared with the accused staff member.

## Please Provide the Following Documents

- |  |   |
|--|---|
| <input type="checkbox"/> Participant(s) Statement                    | <input type="checkbox"/> Other                                      |
| <input type="checkbox"/> Witness (es) Statement (signed)             | <input type="checkbox"/> Staff or Offender Protection Investigation |
| <input type="checkbox"/> Activity Logs (Recreation, Shower, Feeding) | <input type="checkbox"/> Property Inventory Forms                   |
| <input type="checkbox"/> Shift Roster                                | <input type="checkbox"/> Property Logs                              |
| <input type="checkbox"/> Ingress/Egress Log                          |   |
| <input type="checkbox"/> Property Confiscation Form                  |   |

## ALLEGATIONS:

Please see attached and address all allegations

EMPLOYEE STATEMENT: Due to the fact that I was conducting a proper roster count, I did speak loudly and ordered everyone multiple times to come to the end of the bunk, present their id, and afterwards they could go back to sleep, continue reading or what they were doing. Officers are allowed to wake up offenders so they can be properly identified. I was asked why I was doing this because it wasn't policy. I stated that they could talk to me (when they came back around) so the issue could be further explained.

Martinez, Vichente  
 PRINTED NAME

Vall H  
 SIGNATURE

8/30/17  
 DATE

CO III  
 RANK/TITLE

2AGP / security  
 SHIFT/DEPARTMENT

SUPERVISOR COMMENTS: Officer Martinez did conduct a proper roster count by policy and physically identified every offender

K. Zwick  
 PRINTED NAME

[Signature]  
 SIGNATURE

8-31-17  
 DATE

[Signature]  
 RANK/TITLE

2AGP  
 SHIFT/DEPARTMENT



You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? REQUESTED TO SEE RANK, IGNORED When? 11:30 AM 08/20/17  
 What was their response? OFFICER MARTINEZ STATED TO TALK TO RANK, NOT HIM  
 What action was taken? DENIED ACCESS TO RANK, WAKE UP TO "HAND ID TO OFFICER".

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate

AUGUST 20TH 2017, AT 11:30 PM, OFFICER MARTINEZ WAS GOING BUNK TO BUNK WALKING DOWN OFFENDER TO HAVE THEM STAND AT THE FOOT OF THE BUNK TO BE COUNTED. OFFICER MARTINEZ STATED "WAKE UP, HAVE YOUR ID IN HAND, AND STAND AT THE END OF THE BUNK, YOU CAN GO BACK TO SLEEP."

OFFICER MARTINEZ'S ACTIONS AREN'T UNIT POLICY, THESE ACTIONS ARE OFFICER MARTINEZ'S INTERPRETATION OF RULES TO HARASS, TO WAKE UP, AND DENY OFFENDERS OF WHAT SLEEP THEY CAN GET IN THIS HEAT, OFFICER MARTINEZ'S ACTIONS ARE UNPROFESSIONAL, IRRESPONSIBLE, AND IN VIOLATION OF TDCJ-CID POLICY CONCERNING SLEEP DEPRIVATION.

I WAS AWAKEN BY THE 8:30 PM COUNT OFFICER WHEN HE WAS TAKING A NAMED ID ROSTER COUNT.

IT ALWAYS SEEMS IT IS SOLELY THIS OFFICER WHO HARASSES OFFENDERS (MARTINEZ) ABOUT WAKING UP TO PRESENT ID'S. THIS ISN'T A MATTER OF A "WELLNESS CHECK" THIS IS JUST HIS WAY OF HARASSING OFFENDERS



## GRIEVANCE INVESTIGATION WORKSHEET

Restricted &amp; Confidential

GRIEVANCE OFFICE USE ONLY										STEP 1		
										STEP 2 X		
Unit	R4	INV ID:	I2197	GR #	2017192166	Date Initiated:	11/02/17	Date Completed:		11/02/17	Due Date	11/11/17
Offender Name:		FAIN, ROGER				TDCJ No:		700474	Housing:	ML		
Issue Code:		EMERGENCY		ADA	( )	Property		( )	Use of Force (UOF)		( )	
815		YES	( )	Disciplinary	( )	Religion		( )	Harassment or Retaliation*		( )	
		NO	( X )	Medical	( )	OPI Investigation		( )	PREA		( )	
<small>*Harassment or Retaliation of Use of the Grievance Procedure, Access to Courts, or other Legal Activity</small>												
<small>Note: Offenders are not allowed to review the grievance investigation worksheet at any time. For claims of sexual abuse, sexual assault, criminal acts by staff, Excessive or Unreported UOF, the investigation must be conducted by the Office of Inspector General (OIG) and the OIG Fact Sheet completed.</small>												
<b>Summary of Issue: (Include date, time and location):</b>  Offender is claiming that Officer Martinez is going bunk to bunk asking them to come to the front of the bunk with their ID's to do count. Offender claims that this is a way for Officer Martinez to harass and to wake up and deny offenders sleep as this is not policy and very unprofessional.												
<b>Requested Remedy:</b>  Officer Martinez needs to be explained proper policy about allowing 6 hours of uninterrupted sleep as roster count was done at 8:30pm.												
The following is to be completed and signed by the Investigating Official. Attach statements/supporting documentation, if applicable.												
<b>Summary of Fact Finding Activity:</b>  Officer Martinez statement SM-01.03												
<b>Suggested Response to Offender:</b>  <div style="text-align: right;">08</div> Submit one issue per grievance. Your complaint has been noted and was appropriately addressed at Step One. No further action warranted.												
OUTCOME CODE:		D		RESOLUTION CODE:		2.01		(Grievance Office Use Only)				
Investigating official completes the section below:												
Printed Name:		L. PELITIRE				Signature:						
Title:		AA IV				Date:		November 2, 2017				
<small>This grievance is being processed in an effort to resolve a problem through the established procedures identified in BP-03.77 and AD-0382. It is expressly prohibited to subject the grievant, other offenders, or staff to any form of reprisal for the use of these procedures.</small>												





**Texas Department of Criminal Justice**  
**STEP 2** **OFFENDER**  
**GRIEVANCE FORM**

Offender Name: Roger Fain TDCJ # 00700474  
Unit: McConnell Housing Assignment: 19 Y-007  
Unit where incident occurred: Unit Infirmary

OFFICE USE ONLY	
Grievance #:	<u>2017179272</u>
UGI Recd Date:	<u>SEP 14 2017</u>
HQ Recd Date:	<u>SEP 18 2017</u>
Date Due:	<u>10-29</u>
Grievance Code:	<u>618</u>
Investigator ID#:	_____
Extension Date:	_____

*You must attach the completed Step 1 Grievance that has been signed by the Warden for your Step 2 appeal to be accepted. You may not appeal to Step 2 with a Step 1 that has been returned unprocessed.*

**Give reason for appeal (Be Specific).** *I am dissatisfied with the response at Step 1 because...*

I have once again brought forth a complaint against Ms. Tanya Lawson, Practice Manager of the McConnell Unit Infirmary, and once again Ms. Lawson answers the Grievance/Complaint against herself, (See attached document, I-60 dated 07-18-2017).

Ms. Lawson failed to address the issue(s) I raised against her and those concerning the Infirmary, i.e. failing to treat my medical condition with the appropriate medications. Furthermore, in her reply/response, Ms. Lawson compounds her continuing "mis-direction" by lying on a Official TDCJ-CID document, when she states that: "YOUR NAPROXEN PRESCRIPTION EXPIRED ON 4.2.17 AND WAS NOT RENEWED. YOU HAD COMPLETE BLOOD WORK ON IN APRIL, PRIOR TO YOUR CHRONIC CARE CLINIC THAT GAVE THE PROVIDER THE PROPER INFORMATION TO MAKE HIS DETERMINATION." This statement is a lie, and an attempt at mis-directing the issue(s) raised.

Prior to my April 28th 2017 Chronic Care Clinic I did not have any blood work done. My last blood work was done after my Chronic Care Clinic in 2016, and at no time was the bloodwork taken and analyzed for my kidneys or to determine if Naproxen was damaging my kidney function.

I have arthritis, I have serious swelling in my elbows, finger joints, and feet, Naproxen is the medication prescribed for the proper treatment for arthritis, the only reason it was discontinued was due to money concerns, and one 325mg aspirin, and 25mg Nortriptyline replaced the proper treatment, and I have given notice to the Infirmary/Ms. Lawson that the pain is greater than the treatment. Her response, "you may require a higher dose..." Ms. Lawson has over stepped her job description as Practice Manager and is giving medical advice, and this is an issue I put forth in my step-one, a grievance that Ms. Lawson herself answered.

Ms. Lawson is a stickler for an Offender to abide by the rules of UTMB, but she herself is in violation herself of Rules, Procedures and Policies of TDCJ-CID. Furthermore, I attached the I-128 Front (Revised 11-2010)

YOUR SIGNATURE IS REQUIRED ON BACK OF THIS FORM

Exhibit 1

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Appendix G



the original I-60 dated 7.18.2017, but for some reason when the grievance was returned, the attachment was missing, so I have once again attached a copy of the I-60 so as to assist in the determination of this grievance.

Offender Signature: \_\_\_\_\_

Grievance Response: \_\_\_\_\_

~~ATTACHMENT~~ COPY I-60

Date: September 12th 2017

A review of the Step 1 Medical Grievance has been completed regarding your complaint to be given another medication for your arthritis pain. Also you complained to be treated properly and given the proper medication to treat the inflammation and pain of arthritis. You complained for the infirmary to revise policy on treating Offenders.

The review shows you are currently prescribed Aspirin which is a pain/anti-inflammatory medication. Also, the indication for Nortriptyline states it relief symptoms of depression and chronic pain. Appellate review of your Health Record shows on 07/27/2017, you were seen by the Mental Health (MH) provider and you requested to know whether Nortriptyline is a psychotropic medication. You were informed by the MH provider that Nortriptyline can be prescribed to ameliorate/alleviate symptoms of depression and can be prescribed by the medical department for medical reasons to include pain control. The documentation in your Health Record shows you have been afforded access to proper medical care.

If you feel your medical condition has changed or warrants further evaluation, submit a Sick Call Request to discuss your concerns with a licensed medical provider.

**STEP II MEDICAL GRIEVANCE PROGRAM  
OFFICE OF PROFESSIONAL STANDARDS  
TDCJ HEALTH SERVICES DIVISION**

Signature Authority: \_\_\_\_\_

Date: \_\_\_\_\_

9/29/17

Returned because: \*Resubmit this form when corrections are made.

- ☐ 1. Grievable time period has expired.
- ☐ 2. Illegible/Incomprehensible.\*
- ☐ 3. Originals not submitted. \*
- ☐ 4. Inappropriate/Excessive attachments.\*
- ☐ 5. Malicious use of vulgar, indecent, or physically threatening language.
- ☐ 6. Inappropriate.\*

CGO Staff Signature: \_\_\_\_\_

**OFFICE USE ONLY****Initial Submission**

CGO Initials: \_\_\_\_\_

Date UGI Recd: \_\_\_\_\_

Date CGO Recd: \_\_\_\_\_

(check one) ☐ Screened ☐ Improperly Submitted

Comments: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

**2<sup>nd</sup> Submission**

CGO Initials: \_\_\_\_\_

Date UGI Recd: \_\_\_\_\_

Date CGO Recd: \_\_\_\_\_

(check one) ☐ Screened ☐ Improperly Submitted

Comments: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

**3<sup>rd</sup> Submission**

CGO Initials: \_\_\_\_\_

Date UGI Recd: \_\_\_\_\_

Date CGO Recd: \_\_\_\_\_

(check one) ☐ Screened ☐ Improperly Submitted

Comments: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

Exhibit 1

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## Texas Department of Criminal Justice

STEP 1

OFFENDER  
GRIEVANCE FORMAccept As Original *ce*

Offender Name: Roger Fain TDCJ # 00700474  
 Unit: Wm.G.McConnell Housing Assignment: 19 Y-007  
 Unit where incident occurred: Unit Infirmary

## OFFICE USE ONLY

Grievance #: 2017171272  
 Date Received: 7.27.17  
 Date Due: 9.10.17  
 Grievance Code: 6018  
 Investigator ID #: 19502226  
 Extension Date: \_\_\_\_\_  
 Date Ret'd to Offender: SEP 08 2017

You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? I-60 per CMHC Policy 21.1 Tanya Lawson, Manager When? 7.18.17

What was their response? Didn't address the issues, just informed me to fill out a sick-call request

What action was taken? None

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate

On July 18th 2017, I sent to Ms. Lawson, Practice Manager an I-60 per CMHC Policy 21.1 where it's necessary to attempt an informal resolution of the matter. I stated my problem, (see attachment), and Ms. Lawson's reply was I was given another medication for pain for my arthritis because the medical department seems to be of the opinion that the proper medicine for my pain for arthritis could cause me liver & kidney problems.

Naproxen is the prescribed medicine for arthritis pain & inflammation, I was receiving this, and it was doing the job, but after two 90 day cycles I was removed from this proper med to what Ms. Lawson and Medical Director Kwarteng stated is a better treatment, I am given one 325mg aspirin, and 25mg Nortriptyline, neither of these meds is for inflammation of the joints, which is swelling of the area, thus causing the pain, aspirin is an all purpose pain med, but Nortriptyline is in it's proper useage is for anti-depressant behavior, and by the attached I-60, Ms. Lawson wants me to have the dosage doubled. Again, neither of this new prescribed meds are for inflammation, which is the cause of the pain.

Furthermore, both Ms. Lawson, and Medical Director Kwarteng state that Naproxen would cause serious liver & kidney problems, yet at no time have either ever had me tested for liver problems, or kidney problems, their practice here on this Units Infirmary is to treat whatever ailment that an Offender states he has, without doing a proper work-up or physical examination of the problem. In my case I was seen about 18 months ago for a routine annual examination, I explained about pain in my feet, hands and elbow, without even looking at me, examing the areas in question x-rays were ordered, and later the x-rays revealed arthritic areas, but there was at no time any follow up evaluations or examinations, no hands on review of what I was complaining about.

I don't ride sick call, the medical department doesn't care that my condition is causing me



a great deal of pain & suffering, thus they are medically different to my medical needs and treatment, the I-60 is required to begin the process of the grievance procedure, I have made an effort to resolve this matter with Ms. Lawson as is required by CMHC Policy 12.1, her reply was unsatisfactory, thus I will proceed with a Step-I.

**\* ATTACHED ORIGINAL I-60 \***

**Action Requested to resolve your Complaint.**

I wish to be treated properly, and given the proper medication to treat the inflammation and pain of arthritis, and I wish to have the infirmary to revise their policy on treating Offenders.

Offender Signature: [Signature] 700474

Date: July 24th 2017 (5:00 PM)

Grievance Response:

Offender Fain, aspirin is non-steroidal anti-inflammatory drug, or NSAID; exactly the same as Naproxen. It was the first NSAID to be used. Nortriptyline is commonly used to control long term-chronic pain, being far more effective than other classes of drugs for that use. Your creatinine level is high enough to make prescribing you Naproxen contra-indicated. Your Naproxen prescription expired on 4/2/17 and was not renewed. You had complete blood work on in April, prior to your Chronic Care Clinic that gave the provider the proper information to make his determination. I do not make clinical decisions. I merely attempt to educate/explain why a decision was made when a patient submits an informal grievance.

Signature Authority: [Signature]

Date: 8-31-17

If you are dissatisfied with the Step 1 response, you may submit a Step 2 (I-128) to the Unit Grievance Investigator within 15 days from the date of the Step 1 response. State the reason for appeal on the Step 2 Form.

Returned because: \*Resubmit this form when the corrections are made.

- ☐ 1. Grievable time period has expired.
- ☐ 2. Submission in excess of 1 every 7 days. \*
- ☐ 3. Originals not submitted. \*
- ☐ 4. Inappropriate/Excessive attachments. \*
- ☐ 5. No documented attempt at informal resolution. \*
- ☐ 6. No requested relief is stated. \*
- ☐ 7. Malicious use of vulgar, indecent, or physically threatening language. \*
- ☐ 8. The issue presented is not grievable.
- ☐ 9. Redundant, Refer to grievance # \_\_\_\_\_
- ☐ 10. Illegible/Incomprehensible. \*
- ☐ 11. Inappropriate. \*

UGI Printed Name/Signature: \_\_\_\_\_

Application of the screening criteria for this grievance is not expected to adversely affect the offender's health.

Medical Signature Authority: \_\_\_\_\_

I-127 Back (Revised 11-2010)

**OFFICE USE ONLY**

Initial Submission UGI Initials: \_\_\_\_\_  
 Grievance #: \_\_\_\_\_  
 Screening Criteria Used: \_\_\_\_\_  
 Date Recd from Offender: \_\_\_\_\_  
 Date Returned to Offender: \_\_\_\_\_  
 2<sup>nd</sup> Submission UGI Initials: \_\_\_\_\_  
 Grievance #: \_\_\_\_\_  
 Screening Criteria Used: \_\_\_\_\_  
 Date Recd from Offender: \_\_\_\_\_  
 Date Returned to Offender: \_\_\_\_\_  
 3<sup>rd</sup> Submission UGI Initials: \_\_\_\_\_  
 Grievance #: \_\_\_\_\_  
 Screening Criteria Used: \_\_\_\_\_  
 Date Recd from Offender: \_\_\_\_\_  
 Date Returned to Offender: \_\_\_\_\_

Exhibit 1

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Appendix F





## Texas Department of Criminal Justice

# STEP 1 OFFENDER GRIEVANCE FORM

## OFFICE USE ONLY

Grievance #: 2017171272Date Received: 7.27.17Date Due: 9.10.17Grievance Code: 6018Investigator ID #: 1950

Extension Date: \_\_\_\_\_

Date Retd to Offender: \_\_\_\_\_

Offender Name: Roger Fain TDCJ # 00700474Unit: Wm.G.McConnell Housing Assignment: 19 Y-007Unit where incident occurred: Unit Infirmary

You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? I-60 per CMHC Policy 21.1 Tanya Lawson, Manager When? 7.18.17What was their response? Didn't address the issues, just informed me to fill out a sick-call requestWhat action was taken? None

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate

On July 18th 2017, I sent to Ms. Lawson, Practice Manager an I-60 per CMHC Policy 21.1 where it's necessary to attempt an informal resolution of the matter. I stated my problem, (see attachment), and Ms. Lawson's reply was I was given another medication for pain for my arthritis because the medical department seems to be of the opinion that the proper medicine for my pain for arthritis could cause me liver & kidney problems.

Naproxen is the prescribed medicine for arthritis pain & inflammation, I was receiving this, and it was doing the job, but after two 90 day cycles I was removed from this proper med to what Ms. Lawson and Medical Director Kwarteng stated is a better treatment, I am given one 325mg aspirin, and 25mg Nortriptyline, neither of these meds is for inflammation of the joints, which is swelling of the area, thus causing the pain, aspirin is an all purpose pain med, but Nortriptyline is in it's proper useage is for anti-depressant behavior, and by the attached I-60, Ms. Lawson wants me to have the dosage doubled. Again, neither of this new prescribed meds are for inflammation, which is the cause of the pain.

Furthermore, both Ms. Lawson, and Medical Director Kwarteng state that Naproxen would cause serious liver & kidney problems, yet at no time have either ever had me tested for liver problems, or kidney problems, their practice here on this Units Infirmary is to treat whatever ailment that an Offender states he has, without doing a proper work-up or physical examination of the problem. In my case I was seen about 18 months ago for a routine annual examination, I explained about pain in my feet, hands and elbow, without even looking at me, examing the areas in question x-rays were ordered, and later the x-rays revealed arthritic areas, but there was at no time any follow up evaluations or examinations, no hands on review of what I was complaining about.

I don't ride sick call, the medical department doesn't care that my condition is causing me

Exhibit 1

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## GRIEVANCE INVESTIGATION WORKSHEET

Official Statement

Unit: ML Staff Name: Medical Grievance #: 2017179272 Date: 07/27/17  
 Offender Name: Fain, Roger TDCJ # 700474 Housing Location: 19Y-007

In accordance with BP-03.77, you are required to participate in this investigation as noted. Address each allegation thoroughly. Do not respond with indefinite answers such as "I don't know" or "I have no knowledge of". If you have no knowledge, explain the reason why, (e.g., I was on vacation; I was not assigned there, etc.). Your answers are to be factual, professional, and complete. Do not include opinions or unrelated comments. Remember, the Executive Director, Office of the Inspector General (OIG), Attorney General's Office and State and Federal Court Officials may review your response. All grievances are confidential and may not be discussed between you and the offender or with other individuals. You are expected to return this investigation within 10 working days of receipt. Additional time may be requested by contacting the grievance investigator. Sign and date the form in the designated locations when completed and return to the Unit Grievance Office. If you were provided a narrative copy of the grievance, it must also be returned to the Unit Grievance Office. The grievance may not be duplicated or shared with the accused staff member.

## Please Provide the Following Document

<input type="checkbox"/>	Participant	09/10/17
<input type="checkbox"/>	Witness(es) Statement (signed):	
<input type="checkbox"/>	Activity Logs (Recreation, Shower, Feeding)	
<input type="checkbox"/>	Shift Roster	
<input type="checkbox"/>	Ingress/Egress Log	
<input type="checkbox"/>	Property Confiscation Form	
	Other:	
<input type="checkbox"/>		Staff or Offender Protection Investigation
<input type="checkbox"/>		Property Inventory Forms
<input type="checkbox"/>		Property Logs

Offender claims he needs to return to his prescription of naproxen because aspirin and nortriptyline do not reduce his swelling.

## EMPLOYEE STATEMENT:

PRINTED NAME

DATE

SIGNATURE

RANK/TITLE

SHIFT/DEPARTMENT

## SUPERVISORS COMMENTS:

OFFENDER WAS SEEN ON 4/28/17 AND HE WAS ADVISED TO AVOID MEDICATIONS LIKE NAPROXEN THAT CAN EXAGGERATE HIS KIDNEY FUNCTION WITH HIS CREATININE ALREADY GREATER THAN 1(ONE). HE WAS GIVEN MEDICATION THAT IMPACTS THE KIDNEY TO A LESSER DEGREE THAN NAPROXEN.  
 ISAM KWARTENG

PRINTED NAME

DATE

SIGNATURE

RANK/TITLE

SHIFT/DEPARTMENT



# Grievance Investigation Worksheet

Restricted & Confidential

<b>Grievance Office Use Only</b>		<b>Step 1</b>	
		<b>Step 2 X</b>	
Unit: ML - MCCONNELL Investigator ID: RKE3160 Date Initiated: 9/19/17		Date Completed: 9/28/17 Due Date: 10/29/17	
Offender Name: FAIN, ROGER TDCJ No: 00700474		Grievance No: 2017179272	
Issue Code: 618	Emergency Yes ( ) No (X)	ADA ( ) Disciplinary ( ) Medical (X)	Property ( ) Religion ( ) OPI Investigation ( ) PREA ( ) Use of Force (UOF) ( ) Harrassment or Retaliation * ( )
* Harrassment or Retaliation for use of the Grievance Procedure, Access to Courts, or other legal activity			
NOTE: Offenders are not allowed to review the grievance investigation worksheet at any time. For claims of sexual assault, sexual abuse, criminal acts by staff, Excessive or Unreported UCF, the investigation must be conducted by the Office of the Inspector General (OIG) and the OIG Fact Sheet completed.			
Summary of Issue: (include date, time and location.)		See Step 1 OG-01 Grievance Investigation Worksheet	
Offender Fain complained he was given another medication for pain for his arthritis because the medical department seems to be of the opinion that the proper medicine for his arthritis pain could cause liver and kidney problems. He complained to be treated properly and given the proper medication to treat the inflammation and pain of arthritis. Also, he complained for the infirmary to revise their policy on treating Offenders. ///			
Requested Remedy:		See Step 1 OG-01 Grievance Investigation Worksheet.	

The following is to be completed and signed by the Investigating Official. Attach Statements/Support Documentation, if applicable.

## Summary of Fact Finding Activity:

Concur with findings from Step 1. ///

## Suggested Response to Offender:

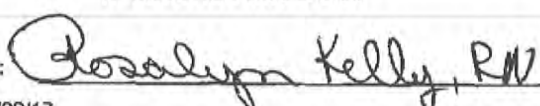
A review of the Step 1 Medical Grievance has been completed regarding your complaint to be given another medication for your arthritis pain. Also you complained to be treated properly and given the proper medication to treat the inflammation and pain of arthritis. You complained for the infirmary to revise policy on treating Offenders. ///The review shows you are currently prescribed Aspirin which is a pain/anti-inflammatory medication. Also, the indication for Nortriptyline states it relief symptoms of depression and chronic pain. Appellate review of your Health Record shows on 07/27/2017, you were seen by the Mental Health (MH) provider and you requested to know whether Nortriptyline is a psychotropic medication. You were informed by the MH provider that Nortriptyline can be prescribed to ameliorate/alleviate symptoms of depression and can be prescribed by the medical department for medical reasons to include pain control. The documentation in your Health Record shows you have been afforded access to proper medical care. ///If you feel your medical condition has changed or warrants further evaluation, submit a Sick Call Request to discuss your concerns with a licensed medical provider.

OUTCOME CODE: DENIED/NO ACTION IS WARRANTED (Grievance Office Use Only)

RESOLUTION CODE: 2.02

Investigating Official completes the section below.

Printed Name: KELLY, ROSALYN

Signature: 

Title: RN II

Date: 9/29/17

This grievance is being processed in an effort to resolve a problem through the established procedures identified in BP-03.77 and AD-03.82. It is expressly prohibited to subject the grievant, other offenders, or staff to any form of reprisal for the use of these procedures.

Dale Dorman, RN  
Manager III  
TDCJ Health Services